

DOCKET NO. CUM-02-534

**MAINE SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT**

C.E.W.,

Appellee

v.

D.E.W.

Appellant

**ON APPEAL FROM THE
CUMBERLAND COUNTY SUPERIOR COURT**

**BRIEF OF AMICI CURIAE DIANE H. SCHETKY M.D., PROFESSOR
JENNIFER WRIGGINS, ESQ., MAINE PSYCHOLOGICAL
ASSOCIATION, NATIONAL ASSOCIATION OF SOCIAL WORKERS,
MAINE CHAPTER OF THE NATIONAL ASSOCIATION OF SOCIAL
WORKERS, MAINE CHILDREN'S ALLIANCE IN SUPPORT OF
APPELLEE, C.E.W.**

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INTEREST OF AMICI CURIAE¹ AND INTRODUCTION

Although the court filings in this appeal have been impounded, the Amici submitting this brief understand that this case involves a dispute between two lesbian parents who have raised their eight year-old child together from birth. The Amici have expertise in a wide range of issues relating to parenting, child welfare, and psychology. The Amici respectfully submit this brief to present the scientific literature demonstrating that it is in the best interests of children that a nonbiological parent in a same-sex parenting couple, who is indisputably a de facto parent, be granted full parental rights and responsibilities after the dissolution of the couple's relationship.

Amicus Curiae Diane H. Schetky, M.D. is a board-certified child psychiatrist and a Clinical Professor in the Department of Psychiatry at the University of Vermont College of Medicine at Maine Medical Center in Portland. Dr. Schetky has served on numerous national and state psychiatric committees, including as the President of the Maine Council of Child and Adolescent Psychiatrists (1995-1997) and as a member of the Council of the American Academy of Child and Adolescent Psychiatry (1995-1998) and the Council on Psychiatry and the Law of the American Psychiatric Association (2000-2005). Dr. Schetky has published numerous peer-reviewed scientific articles in the field of child psychiatry and has co-edited many books, including Principles And Practice Of

¹ The Amici accept the Statement of the Issue, Statement of the Case and Statement of Facts as set forth in the brief of the Appellee.

Child And Adolescent Forensic Psychiatry (Diane H. Schetky, M.D. & Elissa P. Benedek, M.D. eds., 2001) which was the winner of the American Psychiatric Association 2002 Guttmacher award for the best publication in forensic psychiatry. Dr. Schetky practiced child and adult psychiatry for most of her career and now concentrates on forensic psychiatry.

Amicus Curiae Jennifer Wriggins is a Professor at University of Maine School of Law. Professor Wriggins teaches family law and has published several articles about children's status in the legal system, including Parental Rights Termination Jurisprudence: Questioning the Framework, published in the South Carolina Law Review (52 S.C.L.Rev. 241). She has been extensively involved in the litigation of family law and children's issues, both as a supervisor in the Cumberland Legal Aid Clinic and as a practicing attorney. Prior to joining the Law School, Professor Wriggins served as Clerk to the Honorable Edward T. Gignoux, U.S. District Judge in Portland, ME (1984-85) and practiced law in a variety of settings, including at Tureen & Margolin, Portland, Maine (1985-88), Berman, Simmons & Goldberg, Lewiston, Maine (1988-90), the Civil Rights Division of the Massachusetts Attorney General's Office (1990-91), and as an attorney and partner at Pressman, Kruskal & Wriggins in Cambridge, Massachusetts (1991-96).

Amicus Curiae Maine Psychological Association was founded over 50 years ago and represents the majority of psychologists and

psychological examiners in Maine. The Association is dedicated to improving the emotional and behavioral health of individuals, communities and organizations in Maine.

Amicus Curiae National Association of Social Workers (NASW) was established in 1955 and is the largest association of professional social workers in the world with 150,000 members in every state and internationally. NASW policies recognize that the home environments provided by gay and lesbian parents are as likely as those provided by heterosexual parents to support and enable children's psychological growth. Amicus Curiae Maine Chapter of the National Association of Social Workers has over 1,200 members.

Amicus Curiae Maine Children's Alliance was established in 1944 as a statewide, non-profit membership organization whose major goal is to advocate for sound public policies that seek to improve the lives of all Maine's children, youth and families. The Alliance grew out of a clear need for a strong, unified approach to prioritize the needs of children, with the understanding that the future of Maine's communities is invariably linked to the well-being of its children.

The scientific literature regarding parenting by lesbian and gay couples, and specifically the parent-child bonds formed by nonbiological parents in same-sex parenting couples, demonstrates that C.E.W. here should be granted full parental rights and responsibilities. Families with same-sex parents function virtually identically to families with opposite-

sex parents. Social science research spanning over two decades has conclusively established that: (1) same-sex couples have parenting abilities at least equal to those of heterosexual parents and form bonds with their children in the same way as opposite-sex parents;(2) children of same-sex parents fare as well as children of heterosexual parents in mental health, psychological and social adjustment, and all other measures of adjustment and well-being; and (3) in two-parent families where only one parent has a biological link to the child -- including both same-sex parenting couples and opposite-sex couples who adopt or utilize assisted reproductive technology -- the child forms an authentic and substantial parental relationship with the nonbiological parent equivalent to the relationship with a biological parent. The existence of a biological or genetic link is not the key determinant in establishing a parent-child relationship. As the American Academy of Pediatrics has recently declared (see § II(B), infra), the full legal recognition of both parents during, and in the event of a dissolution of, the parents' relationship is as critical for the psychological health and well-being of children of same-sex parents as it is for all children.

SUMMARY OF ARGUMENT

1. Many gay and lesbian couples raise children together. These families function just like families with opposite-sex parents. The bonds between parent and child are developed in identical ways, and children of same-sex couples are just as likely to be healthy and well-adjusted as children of opposite-sex couples. Leading child welfare organizations in this country -- including the American Academy of Pediatrics and the American Academy of Child & Adolescent Psychiatry -- agree that children raised by same-sex parents fare as well as their peers. (pp. 7-13).

2. There is a scientific consensus that the parenting ability of lesbians and gays is equivalent to that of heterosexual parents. In addition, studies over a two-decade period have consistently shown that children of same-sex couples are equivalent to children of opposite-sex couples in emotional health, social and behavioral adjustment, cognitive abilities, and all other measures of adjustment and development. Because children of same-sex couples need exactly what children of opposite-sex couples need for optimal development, this Court should grant full parental rights and responsibilities to both of a child's same-sex parents. (pp. 13-22).

3. When two same-sex parents intend to raise a child together and both participate in raising the child, the "nonbiological" parent functions fully as a parent. Research demonstrates that a biological link

is not the key to the establishment of a real and substantial parent-child relationship. Indeed, scientific studies demonstrate that when a biological and nonbiological mother raise a child together, the nature of the parent-child bonds are comparable and the child perceives both individuals as parents. (pp. 22-28).

4. Granting a nonbiological parent in a same-sex parenting couple full parental rights and responsibilities will enhance the emotional health, well-being and security of children of lesbians and gays. Indeed, this position has been endorsed by the American Academy of Pediatrics as necessary to full psychological security for children. When two parents have been intimately involved in a child's upbringing and care, the child needs the continuity of similar parental involvement after the dissolution of the parental relationship. In addition, the denial of full legal status to a nonbiological parent would send a harmful message to the child that one of his or her parents is inferior or less acceptable than the parents of other children. (pp. 28-31).

ARGUMENT

I. **THERE IS A SCIENTIFIC CONSENSUS THAT LESBIAN AND GAY PARENTS ARE AS FIT, CAPABLE AND SUCCESSFUL AS HETEROSEXUAL PARENTS, AND THEIR CHILDREN FARE AS WELL ON ALL MEASURES OF DEVELOPMENT AND ADJUSTMENT.**

Many gay and lesbian couples, like their heterosexual counterparts, raise children together.² Research indicates that same-sex couples will continue to parent in greater numbers.³ There is a scientific consensus based on over 25 years of research and 50 peer-reviewed scientific studies that: (1) same-sex couples have parenting abilities at least equal to that of heterosexual parents; and (2) children of same-sex

² Precise statistics are impossible to obtain, but social scientists are in general agreement that that millions of children in this country have at least one parent who is lesbian or gay. See Ellen C. Perrin, M.D. & the Committee on Psychosocial Aspects of Child and Family Health, American Academy of Pediatrics, Technical Report: Coparent or Second-Parent Adoption by Same-Sex Parents 109 *Pediatrics* 341, 341 (February 2002) available at <http://www.aap.org/policy/020008t.html> (hereinafter, "Pediatric Report") (estimating that between 1 and 9 million children in the United States have a gay or lesbian parent); Charlotte J. Patterson, Children of Lesbian and Gay Parents, 63 *Child Development* 1025, 1026 (1992) (citing various sources estimating as many as 14 million children of lesbian and gay parents).

³ The increase in the number of children raised by lesbians outside the context of heterosexual relationships has been well documented in the literature. See, e.g., Charlotte J. Patterson, Ph.D., Children of the Lesbian Baby Boom: Behavioral Adjustment, Self-Concepts, and Sex-Role Identity, in Contemporary Perspectives on Lesbian & Gay Psychology: Theory Research, & Application 156, 156(B. Green & G. Herek eds., 1994)(citing numerous studies and noting that the numbers of lesbians bearing or adopting children in the context of their lives as lesbians are consistently described as growing). In addition, recent studies of gay men have found that more than half who were not fathers indicated that they would like to rear a child. Patterson, supra note 2 at 1058.

parents fare as well as children of heterosexual parents in mental health, psychological and social adjustment, intelligence, peer relationships, and all other indicators of adjustment and well-being.

The large number of studies that have been conducted over a long duration, with consistent results, leave little dispute that families with same-sex parents function virtually identically to families with heterosexual parents.⁴ This conclusive evidence of similarities, set forth below, should lead this Court to apply the same principles of law and child welfare to families with same-sex and opposite-sex parenting couples.

A. Gays And Lesbians Raise Children, Including In Two-Parent Families Where Only One Parent Has A Biological Relationship To The Child.

As the American Academy of Pediatrics recently noted, “[l]esbian and gay adults choose to become parents for many of the same reasons

⁴ See Pediatric Report at 343 (noting that “the weight of evidence gathered during several decades using diverse samples and methodologies is persuasive in demonstrating that there is no systematic difference between gay and nongay parents in emotional health, parenting skills, and attitudes towards parenting. No data have pointed to any risk to children as a result of growing up in a family with 1 or more gay parents.”); See also Ellen C. Perrin, M.D., Children Whose Parent(s) Is/Are Lesbian or Gay, in Sexual Orientation in Child and Adolescent Health Care 105, 126 (2002) (discussing the consistently positive findings about children whose parents are gay or lesbian and noting “the power of the astonishingly similar findings reported over several decades by diverse investigators studying different samples and using different techniques”; “[i]n contrast, not a single scientific investigation has been published to date that provides primary data demonstrating any adverse effects on children having a gay and/or lesbian parent(s).”).

heterosexuals do,” including because “[t]he desire for children is a basic human instinct and ... may satisfy people’s desire to provide and accept love and nurturing from others.”⁵ Just as the range of family constellations in this country reflects a diversity based on economic, ethnic, religious, or other factors, gay men and lesbians become parents in a variety of ways. Many children of lesbian or gay parents were conceived in the context of a heterosexual relationship.⁶ When a parent subsequently comes out as lesbian or gay, some will have same-sex partners who may develop step-parenting relationships with children.⁷

As with the two lesbian mothers in this case who planned to raise a child together, lesbians and gay men are “increasingly ... becoming parents on their own or in the context of an established same-sex relationship.”⁸ Most lesbians conceive using alternative insemination techniques with a known or anonymous donor’s sperm.⁹ A “growing number” of gay men have chosen to become fathers through the assistance of a surrogate mother who bears the child.¹⁰ Both lesbian and gay male couples may also become parents by fostering or adopting

⁵ Pediatric Report at 341.

⁶ See id. at 341.

⁷ Id.

⁸ Id.

⁹ Id.

¹⁰ Id.

children.¹¹ As with heterosexual couples who adopt children or utilize a variety of assisted reproductive technologies, many lesbians and gay men form two-parent families where only one parent has a biological relationship to the child.¹² Indeed, the American Academy of Pediatrics has fully recognized that both partners in a same-sex parenting couple function fully as parents, even if only one has a biological link to the child.¹³

B. The Leading Experts -- Pediatricians, Psychiatrists, Psychologists, And Social Workers -- Agree: Children Of Gay And Lesbian Parents Are As Psychologically Healthy And Well Adjusted As Children Of Heterosexual Parents.

Every medical, psychological, and child-welfare organization to have addressed the topic has concluded that children raised by same-sex parents are as healthy, happy, and well adjusted as their peers. These experts meticulously have examined the social science -- more than 50 peer-reviewed studies conducted over 25 years -- to conclude that there

¹¹ Id.

¹² See, e.g., Nancy Polikoff, This Child Does Have Two Mothers: Redefining Parenthood to Meet the Needs of Children in Lesbian Mother and Other Nontraditional Families, 78 Geo. L.J. 459 (1990).

¹³ See Ellen C. Perrin, M.D. & the Committee on Psychosocial Aspects of Child and Family Health, American Academy of Pediatrics, Policy Statement: Coparent or Second-Parent Adoption by Same-Sex Parents 109 Pediatrics 339, 339 (February 2002) (policy statement accompanying Technical Report) (recommending that states make available second-parent adoption for same-sex couples because “[c]hildren who are born to or adopted by 1 member of a same-sex couple deserve the security of 2 legally recognized parents.”).

is no relationship between the gender or sexual orientation of parents and the well-being of their children.

The *American Academy of Pediatrics*, the nation's preeminent pediatric authority with 57,000 pediatrician members, has adopted a formal policy declaring that:

[C]hildren who grow up with 1 or 2 gay and/or lesbian parents fare as well in emotional, cognitive, social, and sexual functioning as do children whose parents are heterosexual ... No data have pointed to any risk to children as a result of growing up in a family with 1 or more gay parents.¹⁴

The Academy explains:

Children'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.¹⁵

The American Psychological Association, representing more than 155,000 psychologists, concluded in a thorough research review in 1995 that:

Not a single study has found children of gay or lesbian parents to be disadvantaged in any significant respect relative to children of heterosexual parents. Indeed, the evidence suggests that home environments provided by gay and lesbian parents are as likely as those provided by

¹⁴ Pediatric Report at 341-42 (emphasis supplied). See also American Academy of Pediatrics, Policy Statement: Coparent or Second-Parent Adoption by Same-Sex Parents *supra* note 13 at 339. Through its policies and educational materials, the Academy offers guidance to parents and others on child-rearing issues.

¹⁵ Pediatric Report at 341.

heterosexual parents to support and enable children's psychosocial growth.¹⁶

Similarly, the *National Association of Social Workers* (with nearly 150,000 members) has determined that:

The most striking feature of the research on lesbian mothers, gay fathers, and their children is the absence of pathological findings. The second most striking feature is how similar the groups of gay and lesbian parents and their children are to heterosexual parents and their children that were included in the studies.¹⁷

The *American Psychoanalytic Association* also has been unequivocal:

Gay and lesbian individuals and couples are capable of meeting the best interest of the child and should be afforded the same rights and should accept the same responsibilities as heterosexual parents.¹⁸

Finally, the *American Academy of Child & Adolescent Psychiatry* which represents over 6,500 psychiatrists, has concurred.¹⁹ Indeed,

¹⁶ American Psychological Association, Lesbian and Gay Parenting: A Resource for Psychologists 8 (1995) available at <http://www.apa.org/pi/parent.html> (emphasis supplied).

¹⁷ National Association of Social Workers, Policy Statement: Lesbian, Gay, and Bisexual Issues, in Social Work Speaks 193, 194 (1997) (emphasis supplied).

¹⁸ American Psychoanalytic Association, Position Statement on Gay and Lesbian Parenting (May 16, 2002) available at <http://www.apsa-co.org/ctf/cgli/parenting.htm> (emphasis supplied).

¹⁹ See American Academy of Child & Adolescent Psychiatry, Policy Statement on Gay, Lesbian and Bisexual Parents (June 1999) available at <http://www.aacap.org/publications/policy/ps46.htm> (emphasis supplied) ("Outcome studies of children raised by parents with a homosexual or bisexual orientation, when compared to heterosexual

Amici are unaware of any authoritative child welfare organization that has taken a contrary position.

C. Social Science Research Demonstrates That Lesbian And Gay Parents Are As Fit, Capable And Successful As Heterosexual Parents.

Social science research dating to the late 1970s has consistently established that the parenting ability of lesbians and gays is equivalent to that of heterosexual parents.²⁰ As one study concluded, “[t]he research is extraordinarily clear in its finding about lesbian and gay parents and their children: they look remarkably like their heterosexual counterparts and their children.”²¹ Indeed, study after study demonstrates that there are no differences between same-sex parents

parents, show no greater degree of instability in parental relationship or developmental dysfunction in children”).

²⁰ See Perrin, supra note 4 (no differences between lesbian and heterosexual mothers in parenting ability); Beverly Hoeffler, R.N., D.N.Sc., Children’s Acquisition of Sex-Role Behavior in Lesbian-Mother Families, 51 Am. J. of Orthopsychiatry 536, 542-543 (1981) (finding similarities in parenting styles and skills between lesbians and heterosexuals); Frederick W. Bozett, Heterogeneous Couples in Heterosexual Marriages: Gay Men and Straight Women, 8 J. Marital & Fam. Therapy 81, 88 (1982) (gay fathers highly parental and placed importance on regular involvement with children); Brian Miller, Gay Fathers and Their Children, 28 Fam. Coordinator 544, 551 (1979) (sexual orientation has nothing to do with ability to parent); and Frederick W. Bozett, Gay Fathers: A Review of the Literature, in Homosexuality and the Family 137, 152-154 (Frederick W. Bozett ed., 1989) (concluded based on scientific evidence that being gay is compatible with effective parenting and that the father’s sexual orientation is of little importance in the overall father-child relationship)(emphasis supplied).

²¹ G. Dorsey Green & Frederick W. Bozett, Lesbian Mothers and Gay Fathers, in Homosexuality: Research Implications for Public Policy 198 (John C. Gonsiorek & James D. Weinrich eds., 1991)(emphasis supplied).

and opposite-sex parents on every meaningful measure of parenting ability.²²

²² See, e.g., Cheryl A. Parks, Ph.D., Lesbian Parenthood: A Review of the Literature, 68 Am. J. of Orthopsychiatry 376, 380, 386 (1998) (a critical examination of 17 peer-reviewed studies published between 1980 and 1992 concluded that “few differences” exist between heterosexual and lesbian mothers)(emphasis supplied); David K. Flaks et al., Lesbians Choosing Motherhood: A Comparative Study of Lesbian and Heterosexual Parents And Their Children, 31 Developmental Psychol. 105, 111-112 (1995) (no differences between lesbian and heterosexual parents) (emphasis supplied); Sally L. Kweskin & Alicia S. Cook, Heterosexual and Homosexual Mothers’ Self-Described Sex-Role Behavior and Ideal Sex-Role Behavior in Children, 8 Sex Roles 967, 971 (1982) (lesbian mothers and heterosexual mothers have comparable attitudes towards sex roles) (emphasis supplied); Martha Kirkpatrick, M.D., Clinical Implications of Lesbian Mother Studies, 14 J. of Homosexuality 201, 210 (1987) (lesbian mothers no different from heterosexual mothers in lifestyle, parenting style, or social support system)(emphasis supplied); K.F. McNeill et al., Families & Parenting: A Comparison of Lesbian & Heterosexual Mothers, 82 Psychol. Rep. 59, 59 (1998), (finding no differences in parenting behaviors or sex-role characteristics between lesbian and heterosexual mothers)(emphasis supplied); Pediatric Report, at 342 (“no differences” between gay and heterosexual fathers in providing appropriate recreation, encouraging autonomy, or “dealing with general problems of parenting”)(emphasis supplied); Jerry J. Bigner, Ph.D. & R. Brooke Jacobsen, Ph.D., Adult Responses to Child Behavior and Attitudes Toward Fathering: Gay and Nongay Fathers, 23 J. of Homosexuality 99, 109 (1992) (almost no differences between gay and non-gay fathers in providing recreation, involvement, problem-solving and parenting styles)(emphasis supplied); Jerry J. Bigner, Ph.D. & R. Brooke Jacobsen, Ph.D., The Value of Children to Gay and Heterosexual Fathers, 18 J. of Homosexuality 163, 169, 170 (1989) (gay fathers did not differ from heterosexual fathers on reasons for wanting to become a parent and value of children in their lives as an adult)(emphasis supplied); Mary B. Harris, Ph.D. & Pauline H. Turner, Ph.D., Gay & Lesbian Parents, 12 J. of Homosexuality 101, 112 (Winter 1985/86) (comparing gay fathers, nongay fathers, lesbian mothers and non-lesbian mothers and finding no significant differences in the parents’ relationship with their children)(emphasis supplied); and Donna J. Hutchens & Martha J. Kirkpatrick, Lesbian Mothers/ Gay Fathers, in Emerging Issues in Child Psychiatry and the Law 119-21 (Diane H. Schetky, M.D. & Elissa P. Benedek, M.D. eds., 1985)(discussing data showing no difference in

For example, it has long been established that lesbian mothers are indistinguishable from heterosexual mothers in psychological functioning.²³ There are no differences in mental health between same-sex and opposite-sex parents.²⁴ As the American Academy of Pediatrics

parenting style between lesbian mothers and heterosexual mothers)(emphasis supplied).

²³ See Pediatric Report at 342 (few differences in research over two decades comparing lesbian and heterosexual mothers' self-esteem, psychological adjustment, anxiety, depression and parenting stress); Catherine Rand, M.A. et al., Psychological Health and Factors The Court Seeks to Control in Lesbian Mother Custody Trials, 8 J. of Homosexuality 27, 32 (1982) (lesbian mothers at least as psychologically healthy as the larger standardized sample in psychological tests); Richard Green, M.D. et al., Lesbian Mothers and Their Children: A Comparison with Solo Parent Heterosexual Mothers and Their Children, 15 Archives Sexual Behav. 167, 173-74 (1986) (applying psychological tests to lesbian and heterosexual mothers and finding higher scores for lesbian mothers with respect to self-confidence); Charlotte J. Patterson, Ph.D., Children of Lesbian and Gay Parents, 19 Advances in Clinical Child Psychol. 235, 265, 266 (1997) (lesbian mothers scored within normal range on scales of mental health and self-esteem); McNeill et al., supra note 22, at 59 (lesbian and heterosexual mothers "had remarkably similar scores on self-reported stress, adjustment, competence, and quality of the relationship with their families")(emphasis supplied); and Hutchens & Kirkpatrick, supra note 22, at 118.

²⁴ In fact, social science research demonstrates that "lesbians and gay men, as a group, do not differ in significant ways from heterosexuals except in terms of their sexual orientation." Gregory M. Herek, Myths About Sexual Orientation: A Lawyer's Guide to Social Science Research, 1 Law & Sexuality 133, 133 (1991). The psychiatric, psychological, and social work professions -- including the American Psychiatric Association, the American Psychological Association, the National Association of Mental Health and others -- have long rejected the suggestion that a same-gender sexual orientation is a disorder. See Stephen F. Morin & Esther Rothblum, Removing the Stigma, 46 Am. Psychologist 947, 947 (1991). Social science research has established that same-gender sexual orientation is neither uncommon nor unnatural and has been expressed throughout history and in all cultures. Id.

concluded, “lesbian mothers strongly endorse child-centered attitudes and commitment to their maternal roles” and are similar in marital and maternal interests, child-rearing practices, support networks and coping strategies.²⁵ Similarly, the research debunks the myth that gay men do not nurture their children.²⁶ In sum, same-sex couples who raise

²⁵ See Pediatric Report, at 342. See also Bonnie M. Mucklow & Gladys K. Phelan, Lesbian and Traditional Mothers’ Responses to Adult Response To Child Behavior and Self-Concept, 44 Psychol. Rep. 880, 881-882 (1979) (no differences between lesbian and heterosexual mothers on measures of maternal attitude and self-concept) (emphasis supplied); Judith Ann Miller, MS et al., The Child’s Home Environment For Lesbians Vs. Heterosexual Mothers: A Neglected Area of Research, 7 J. of Homosexuality 49, 55 (1981) (mothers in lesbian sample were more child-oriented in responses to children); Martha Kirkpatrick et al., Lesbian Mothers and Their Children: A Comparative Survey, 51 Am. J. of Orthopsychiatry 545, 550 (1981) (lesbian mothers and heterosexual mothers alike in their maternal interests, current life-styles, and child-rearing practices)(emphasis supplied); Harris & Turner, supra note 22 at 111 (finding few differences in maternal attitudes between heterosexual and homosexual mothers)(emphasis supplied); Patricia J. Falk, Lesbian Mothers: Psychosocial Assumptions in Family Law, 44 Am. Psychologist 941, 944 (1989) (“research on maternal attitudes and caregiving behaviors of lesbian mothers indicates either that there are no substantial differences between this group and their heterosexual counterparts or that lesbian mothers may actually be more child-oriented than heterosexual mothers”) (emphasis supplied); and Susan Golombok et al., Children Raised in Fatherless Families From Infancy: Family Relationships and the Socioemotional Development of Children of Lesbian and Single Heterosexual Mothers, 38 J. Child Psychol. & Psychiatry & Allied Disciplines 783, 788, 789 (1997) (no key differences between lesbian and heterosexual mothers in parenting roles) (emphasis supplied).

²⁶ See Pediatric Report at 342 (“Gay fathers have substantial evidence of nurturance and investment in their parental role”); Bozett, Gay Fathers: A Review of the Literature, supra note 20 at 152-54 (finding that gay fathers are more endorsing of parental nurturance than heterosexual fathers) (emphasis supplied); and Jerry J. Bigner, Ph.D. & R. Brooke Jacobsen, Ph.D., Parenting Behaviors of Homosexual and Heterosexual Fathers, 18 J. of Homosexuality 173, 180 (1989) (finding that gay fathers

children do so in very much the same ways as their opposite-sex counterparts who raise children.

D. The Children Of Gay And Lesbian Parents Are As Well Adjusted And Psychologically Healthy As Those Of Heterosexual Parents.

In assessing the issues in this case, it is important to understand that there are no differences in the functioning, health, adjustment or development of children based on the sexual orientation of their parents. In short, children of same-sex couples need exactly what children of opposite-sex couples need for optimal development. Accordingly, the same child welfare policies that are in the best interests of children of opposite-sex parents will serve the best interests of children of same-sex parents, including granting full parental rights and responsibilities to both a child's parents.

There is a scientific consensus, based on over two decades of research, that children of gay or lesbian parents fare as well on all developmental measures and are not disadvantaged in any respect. These studies demonstrate that there is no relationship between sexual orientation and any measure of a child's social or psychological adjustment.²⁷ All studies conclusively show that there is no relationship

tend to be more responsive to perceived needs of children than non-gay fathers)(emphasis supplied).

²⁷ See, e.g., Judith Stacey & Timothy Biblarz, (How) Does the Sexual Orientation of Parents Matter?, 66 Am. Soc. Rev. 159, 176 (2001) (“[E]very relevant study to date, shows that parental sexual orientation per se has no measurable effect on the quality of parent-child

between parental sexual orientation and measures of children's cognitive ability or intelligence.²⁸ Children of lesbians and gays have peer relationships that are as strong as children of heterosexuals.²⁹

One leading pediatric researcher at Tufts New England Medical Center concluded:

relationships or on children's mental health or social adjustment"); and Patterson, Children of Lesbian and Gay Parents supra note 2 at 1064 (examinations of all studies finding that "they provide no evidence that psychological adjustment among lesbians, gay men, their children, or other family members is impaired in any significant way.").

²⁸ See Stacey & Biblarz, supra note 27 at 172 ("across studies, no relationship has been found between parental sexual orientation and measures of children's cognitive ability. Moreover, to our knowledge no theories predict such a link")(emphasis supplied); Flaks et al., supra note 22, at 109 (found no correlation between parental sexual orientation and the children's scores on cognitive functioning tests)(emphasis supplied); Green et al., supra note 23 at 174-179 (no difference in intelligence or cognitive functioning)(emphasis supplied); Kirkpatrick et al., supra note 25 at 547 (same); and Hutchens & Kirkpatrick, supra note 22, at 123 (no evidence of increased difficulties in children of same-sex parents).

²⁹ See Sharon L. Huggins, A Comparative Study of Self-Esteem of Adolescent Children of Divorced Lesbian Mothers and Divorced Heterosexual Mothers, 17 J. of Homosexuality 123, 131-2 (1989)(no significant difference in self-esteem among the two groups of adolescents)(emphasis supplied); Green, supra note 23 at 178 (no significant differences between the children of lesbian and heterosexual mothers with respect to the children's self-ratings of popularity or the mothers' descriptions of the children's popularity)(emphasis supplied); and Mary E. Hotvedt & Jane B. Mandel, Children of Lesbian Mothers, in Homosexuality: Social, Psychological and Biological Issues 275, 282 (1982) (no differences in peer group relationships among boys of lesbian or heterosexual mothers, and, in fact, daughters of lesbian mothers reported that they were more popular than daughters of heterosexual women)(emphasis supplied). See also Stacey & Biblarz, supra note 27, at 172 (noting that the fact that children of lesbians and gays do as well as children of heterosexuals in spite of being subjected to some teasing indicates that "children in these studies seem to exhibit impressive psychological strength.").

[E]very study to date has shown that parental sexual orientation has no measurable effect on the quality of parent-child relationships or on children's mental health or social adjustment ... a substantial body of research has failed to identify any significant developmental difficulties encountered by children whose parents are lesbian or gay.³⁰

Several recent studies compared children born to lesbian mothers and heterosexual mothers, each of whom had been conceived through donor insemination. The research confirmed that there are no differences in behavioral adjustment or social or psychological functioning among the children and one study, in fact, determined that "it was impossible to distinguish" at all between either group.³¹ Similarly, in another study comparing children born to lesbian mothers and heterosexual mothers both by donor insemination, the authors demonstrated that there are no differences in behavioral adjustment of children in either group, and concluded that "children in lesbian mother families have been growing up for the first years of their lives in a warm and secure family environment, just like children in the heterosexual

³⁰ See Perrin, supra note 4, at 129-30.

³¹ Raymond W. Chan et al., Psychosocial Adjustment Among Children Conceived Via Donor Insemination By Lesbian and Heterosexual Mothers, 69 *Child Dev.* 443, 445 (1998) ("It was impossible to distinguish between children born to and brought up by lesbian versus heterosexual parents," and concluding that the results refute the idea that "only heterosexual parents can raise healthy children")(emphasis supplied). See also Flaks et al., supra note 22, at 105, 112 (donor insemination study finding remarkable similarity between the children of lesbian and heterosexual parents with respect to behavioral adjustment)(emphasis supplied).

control groups.”³² Indeed, there have been no differences in the rate of psychiatric difficulty, emotional difficulty, or behavioral difficulty among children of lesbians and heterosexual parents.³³ The findings of no differences in emotional health and psychosocial adjustment hold true universally in studies comparing both children of divorced lesbian mothers with divorced heterosexual mothers,³⁴ and children born to

³² See A. Brewaeys et al., Donor Insemination: Child Development and Family Functioning in Lesbian Mother Families, 12 *Human Reproduction* 1349, 1356 (1997).

³³ Perrin, supra note 4, at 118 (“no differences were found between the children with lesbian and those with heterosexual mothers in the number or type of psychiatric difficulties”)(emphasis supplied); Susan Golombok et al., Children in Lesbian and Single-Parent Households: Psychosexual and Psychiatric Appraisal, 24 *J. Child Psychol. Psychiatry* 551, 565-567 (1983) (lesbian mothers strongly endorse child-centered attitudes and commitment to their maternal roles); Pediatric Report at 342 (no differences in sexual orientation or gender identity of children); Fiona Tasker & Susan Golombok, GROWING UP IN A LESBIAN FAMILY 134-144 (1997) (in a longitudinal study, researchers found no difference between the children raised by a lesbian mother and those raised by a heterosexual mother with respect to anxiety or depression, and no significant differences with respect to mental health problems of mothers)(emphasis supplied); Falk, supra note 25, at 944 (“[N]o evidence exists for a direct relationship between a mother’s sexual orientation and the mental health of her offspring”); and Barbara McCandlish, Against All Odds: Lesbian Mother and Family Dynamics, in Gay and Lesbian Parents 23, 24 (Frederick W. Bozett ed., 1987) (“lesbian and gay parents provide effective parenting for their children, and observing that “children of gay and lesbian parents have no more frequent psychiatric problems and gender dysfunction than do the children of heterosexual parents”)(emphasis supplied).

³⁴ See Julie Schwartz Gottman, Children of Gay and Lesbian Parents, 14 *Marriage & Fam. Rev.* 177, 189-190 (1989) (daughters of lesbian mothers scored higher than daughters of non-remarried heterosexual mothers with respect to the individuals’ sense of security in the world and in relationships); Kirkpatrick et al., supra note 25 at 547-548 (researchers found no differences in the type or frequency of pathology “by any

lesbian mothers with heterosexual mothers.³⁵

measure ... available” between the children living with divorced lesbian mothers and the ones living in similar households with divorced heterosexual mothers) (emphasis supplied); Green et al., supra note 23 at 182 (children raised from early childhood by a lesbian mother are not different on parameters of psychosexual and psychosocial development from children raised by heterosexual mothers)(emphasis supplied); Kirkpatrick, supra note 22 at 207 (“[T]he comparative studies completed so far have not identified any damaging consequences to the children’s development of growing up in a lesbian household”); Ann O’Connell, Voices From the Heart: The Developmental Impact of a Mother’s Lesbianism On Her Adolescent Children, 63 *Smith C. Stud. in Soc. Work* 281, 284 (1993) (identifying numerous studies using various methods and samples across age groupings, which all report “no major differences in psychological or social development” between children of heterosexual and lesbian single parents)(emphasis supplied); Cheri A. Pies, Lesbians and the Choice to Parent, 14 *Marriage & Fam. Rev.* 137, 140 (1989)(referring to growing body of studies of children of lesbian parents and concluding that “children raised by lesbians have an equally good chance of developing into healthy, happy human beings as do children raised in heterosexual homes”); and, Huggins, supra note 29 at 131 (study found no significant statistical differences in self-esteem scores of adolescent children with divorced lesbian mothers and adolescent children with divorced heterosexual mothers)(emphasis supplied).

³⁵ A. Brewaeys & E.V. Van Hall, Lesbian Motherhood: The Impact on Child Development and Family Functioning, 18 *J. Psychosom. Obstet. Gynecol.* 1, 13 (1997) (results of studies of children raised from birth by lesbian mothers “do not seem to suggest that different early childhood experiences with respect to the absence of a father and with respect to the presence of two lesbian mothers had any effect on child development”); Patterson, supra note 3, at 167-68 (children of lesbian mothers found to be similar to the normative sample on social competence, social behavior, self-esteem, sociability, and aggressiveness); Charlotte J. Patterson, Ph.D., Lesbian Mothers and Their Children: Findings From the Bay Area Families Study in Lesbians and Gays In Couples and Families: A Handbook for Therapists 420, 434 (J. Laird & R.J. Green eds., 1996) (results show “child development is proceeding normally”)(emphasis supplied); Patterson, supra note 23, at 255 (“social competence among children with lesbian mothers was rated as normal”); Golombok et al., Children Raised in Fatherless Families supra note 25, at 789 (finding no negative impact on children’s psychological development when growing up with lesbian parents).

Similarly, significant research demonstrates beyond dispute that children raised by gay men are not disadvantaged.³⁶ As two leading scientists observed:

no reason exists for concern about the development of children living in the custody of gay fathers; on the contrary, there is every reason to believe that gay fathers are as likely as heterosexual fathers to provide home environments in which children grow and flourish.³⁷

II. WHEN A SAME-SEX COUPLE INTENDS TO PARENT A CHILD TOGETHER AND BOTH PARTICIPATE IN RAISING THE CHILD, A NONBIOLOGICAL PARENT ESTABLISHES A TRUE PARENTAL RELATIONSHIP WITH THE CHILD AND SHOULD BE ACCORDED FULL PARENTAL RIGHTS AND RESPONSIBILITIES.

When the two partners in a same-sex couple intend to raise a child together, the child may have only one “biological” parent. Research demonstrates that in such intended families, exemplified by the two mothers in this case who decided to create a family and raised their child together for eight years, the “nonbiological” parent functions fully as a parent. A biological link is not the key determinant in the establishment

³⁶ Jerry J. Bigner & Frederick W. Bozett, Parenting by Gay Fathers, 14 *Marriage & Fam. Rev.* 155, 163 (1990) (“There is no evidence of any kind that demonstrates that living with a homosexual parent has any significant negative effects on children”; gay fathers are as effective “and may be even more so in some ways than nongay parents”) (emphasis supplied); Gottman, supra note 34 at 186 (“In general, none of the above studies on children of lesbian mothers and gay fathers reported negative effects on children”); Robert L. Barrett & Bryan E. Robinson, Children of Gay Fathers, in Gay Fathers 90-91 (1990)(“[c]hildren of homosexual fathers do not differ significantly from children reared in more traditional families.”).

³⁷ Charlotte J. Patterson & Raymond W. Chan, Gay Fathers and Their Children, in Textbook of Homosexuality and Mental Health 371, 388 (Robert P. Cabaj & Terry Stein eds., 1996).

of an authentic parent-child relationship. The quality of attachment and interaction between the child and the nonbiological parent is equivalent to that between the child and the biological parent. This principle is as true for same-sex parents and their children as it is where one or both opposite-sex parents do not have a biological relationship to their children, either because they have adopted a child or utilized assisted reproductive technology. It is unquestionably in the best interests of children that, in appropriate cases, nonbiological lesbian parents be granted full parental rights and responsibilities on even footing with biological parents.

A. Scientific Research Demonstrates That Children With Two Same-Gender Parents Form Equally Strong And Healthy Attachments With Both Parents, Irrespective Of A Biological Link.

In families where a biological and nonbiological mother are raising a child, the nature and quality of the parent-child bonds are comparable. In one leading study of lesbian parents raising children, researchers compared 30 two-parent lesbian mother families with children created via donor insemination, 38 two-parent heterosexual families with children created via donor insemination, and 30 two-parent heterosexual families with naturally conceived children.³⁸ The two female partners in the lesbian mother families intended to raise the child together.³⁹ In the

³⁸ See A. Brewaeys et al., supra note 32 at 1349.

³⁹ See id. at 1350.

lesbian families, the quality of the parent-child interaction did not differ significantly between the biological mother and the nonbiological mother.⁴⁰ In fact, when compared to heterosexual fathers in either group, the quality of the parent-child relationship was as high or higher for lesbian nonbiological mothers.⁴¹ Most importantly, the children's own perception of their parents was similar in all three family types.⁴² The nonbiological mother in lesbian families was regarded by the child to be as much a "parent" as the father in both types of heterosexual families. The researchers concluded that both the biological and nonbiological mothers in lesbian families "were actively engaged in child care, and a strong mutual attachment had developed between social mother and child."⁴³

In another study comparing the nonbiological lesbian mother in two-parent lesbian families with fathers in two different groups of

⁴⁰ See id. at 1354.

⁴¹ See id. at 1354.

⁴² See id. at 1349.

⁴³ Id. at 1356. This study used the term "social mother" to refer to the nonbiological mother. Interestingly, the researchers also found that there was no difference in the child's perception of the fathers between the donor insemination and naturally conceived group of heterosexual parents. As such, the researchers concluded that the lack of a genetic link between parent and child did not influence the child's feelings for the parent. See id. at 1356. See also S. Golombok et al., The European Study of Assisted Reproduction Families: Family Functioning and Child Development 11(10) Human Reproduction 2324, 2330(1996)(finding that the lack of a genetic link between one or both parents and the child did not have negative consequences for parent-child relationships).

heterosexual families (fathers whose children were conceived through donor insemination and had no biological link to the child and fathers in families with naturally conceived children), the results indicated that the relationships between fathers and their children and lesbian nonbiological parents and their children were equally warm and affectionate in all three groups.⁴⁴ Similarly, in a 1995 study of 15 lesbian couples with children born through donor insemination compared to 15 matched heterosexual parent families, the results indicated that the biological and nonbiological lesbian mothers had equivalent parenting roles.⁴⁵ The authors concluded that their findings “provide no basis on which to deny nonbiological lesbian mothers full parental status,” either during the couple’s relationship or, should the relationship end, afterward.⁴⁶ Finally, a clinical evaluation of preschool children of lesbian couples concluded that when both members of a lesbian couple care for a child, the child becomes attached to both.⁴⁷

Studies demonstrate that both members of a lesbian couple who intend to raise a child together are highly involved in parenting tasks and activities. Lesbian couples share child care activities more equitably

⁴⁴ F. Tasker & S. Golombok, The Role of Co-Mothers in Planned Lesbian-Led Families, in Living Difference: Lesbian Perspectives on Work and Family Life (G.A. Dunne, ed. 1998).

⁴⁵ See David K. Flaks et al., *supra* note 22 at 112.

⁴⁶ *Id.* at 113.

⁴⁷ Barbara McCandlish, *supra* note 33 at 29-30.

than do heterosexual couples.⁴⁸ Research shows that nonbiological lesbian mothers have highly developed parenting skills.⁴⁹ Moreover, studies have found that lesbian partners in two-parent families had a greater level of synchronicity in parenting than do heterosexual parents.⁵⁰ This dynamic reflects the integral parenting roles of both the biological and nonbiological mother, and also tends to reinforce the child's perception of both persons as parents.

The research on lesbian nonbiological mothers and their children is consistent with the substantial body of professional psychological literature on the important bonds that develop between children and their parental caregivers. Social scientists refer to those strong bonds between parents and children which are formed early in life as "attachment."⁵¹ For example, research on father-child relationships shows that children develop strong bonds with their fathers even if they

⁴⁸ See Perrin, supra note 4 at 119; Brewaeyts et al., supra note 32 at 1354, 1356; Raymond W. Chan et al., Division of Labor Among Lesbian and Heterosexual Parents: Associations With Children's Adjustment 12(3) J. Fam. Psychology 402, 403(1998); F. Tasker & S. Golombok, supra note 44 at 63; Stacey & Biblarz, supra note 27 at 174.

⁴⁹ See Stacey & Biblarz, supra note 27 at 174; Flaks et al., supra note 22 at 110-111.

⁵⁰ See Stacey & Biblarz, supra note 27 at 174; Brewaeyts et al., supra note 32 at 1354; Flaks et al., supra note 22 at 112.

⁵¹ See, e.g., John Bowlby, ATTACHMENT, v. 1 at 198-209 (1969).

spend less time with their fathers than with their mothers. These “emotionally salient relationships . . . persist[] as the child grows older.”⁵²

Research also shows that these bonds develop regardless of whether the parent is a biological parent of the child. Thus, children form as strong attachments to adopted parents as to biological ones.⁵³ If a grandparent fulfills the role of a parent, children also typically develop strong attachments to the grandparent.⁵⁴

The parent-child relationship can develop without reference to biology or formal adoption.⁵⁵ A child develops these strong psychological bonds to any adult

who, on a continuing, day-to-day basis, through interaction, companionship, interplay, and mutuality, fulfills the child’s psychological needs, as well as the child’s physical needs. The psychological parent may be a biological, adoptive, foster, or common-law parent, or any other person.⁵⁶

⁵² R. Thompson, The Father’s Case in Child Custody Disputes: The Contributions of Psychological Research, in FATHERHOOD AND PUBLIC POLICY at 90 (Michael Lamb & A. Sagi, eds., 1983).

⁵³ See Leslie M. Singer, David Brodzinsky & Douglas Ramsay, Mother-Infant Attachment in Adoptive Families, 56 Child Dev. 1543, 1550 (1985)(“Like non-adoptive mother-infant pairs, most adoptive mothers and their infants develop warm and secure attachment relationships”).

⁵⁴ See, e.g., Richard Kalish & Emily Visser, Grandparents of Divorce and Remarriage, 5 J. of Divorce 127, 131 (1982).

⁵⁵ Joseph Goldstein, Anna Freud & Albert Solnit, BEYOND THE BEST INTERESTS OF THE CHILD at 27 (1979 ed.).

⁵⁶ Id. at 98. The authors use the term “common law parent” to describe an adult whose parental role developed outside of adoption, custody, or the initial assignment of a child at birth to his or her biological parents. Id. at 27.

In sum, the research on same-sex parents, as well as parental bonding in general, conclusively demonstrates that a nonbiological parent who has functioned from the child's birth as a parent, such as C.E.W. here, forms bonds with the child equivalent to those of a biological parent.

B. The Advice Of The American Academy Of Pediatrics And The Findings Of Scientific Literature On Parent-Child Bonding Compel The Conclusion That Children Need The Full Legal And Social Recognition Of Both Their Parents, Including After A Parental Separation.

Granting a nonbiological parent in a same-sex parenting couple full parental rights and responsibilities will enhance the emotional health, well-being and security of children of lesbians and gays. The American Academy of Pediatrics has advised that children of gays and lesbians need and deserve the same permanence and security in parental relationships as children of opposite-sex parents.⁵⁷ The Academy has declared:

Children who are born to or adopted by one member of a same-sex couple deserve the security of two legally recognized parents ... When two adults participate in parenting a child, they and the child deserve the serenity that comes with legal recognition.⁵⁸

⁵⁷ See American Academy of Pediatrics, Policy Statement, supra note 13 at 339. Although the Academy's policies were formulated in the context of its recommendation for second-parent adoption, their reasoning is equally applicable to the issues presented in this case.

⁵⁸ Id.

The Academy explained that the full recognition of both of a child's parents is critical to a healthy psychological outcome for the child:

Denying legal parent status through adoption to coparents or second parents prevents these children from enjoying the psychologic and legal security that comes from having two willing capable and loving parents.⁵⁹

The Academy further recognized that this legal recognition is as important after the separation of parents as it is during the course of the parents' relationship. The Academy reasoned:

[By permitting second parent adoption] the child's right to maintain relationships with both parents after separation, viewed as important to a positive outcome in separation or divorce of heterosexual parents, would be protected for families with gay or lesbian parents.⁶⁰

Consistent with the Academy's advice, granting full parental rights and responsibilities to a nonbiological lesbian mother will enhance the security and welfare of the child in two critical ways. First, where two parents have been intimately involved in a child's upbringing and care, including in decision-making and other aspects of parenting, the child will benefit from the continuity of parental roles and responsibilities after the dissolution of the parents' relationship. If one parent has been regularly involved in decision-making about schooling, medical care, and other central aspects of the child's life, the termination of that parent's

⁵⁹ Id.(emphasis supplied).

⁶⁰ Id.(emphasis supplied).

regular and customary role will be experienced as a disturbing and unexplained loss by the child.

Indeed, once parental bonds have been formed, continuity of the same quality and nature of the relationship is important for the child's healthy development. "Continuity of relationships, surroundings, and environmental influence are essential for a child's normal development."⁶¹ Stated differently, "[t]here is a strong case for believing in the unfailing accessibility and support of attachment figures as the bedrock on which stable and self-reliant personality is built."⁶²

Studies of divorced parents confirm the psychological harm that can result from separation from a parent to whom the child is attached.⁶³ This principle is equally true for a termination of physical contact, as it is for a sudden change in a parent's usual and customary role in the child-rearing process. It should be obvious that children raised by same-sex parents have the same need for continuity after their parents' separation.

⁶¹ Goldstein et al., supra note 55, at 31.

⁶² John Bowlby, ATTACHMENT, v. 2, at 322 (1969).

⁶³ See, e.g., Judith S. Wallerstein & Sandra Blakeslee, Second Chances (1989)(children who do not maintain contact with co-parent suffer a continuing sense of loss and sadness); E. Mavis Hetherington et al., What Matters? What Does Not?, 53 Am. Psychologist 167, 177 (February 1998)("some degree of contact is essential"); Judith S. Wallerstein & Joan B. Kelly, SURVIVING THE BREAKUP, 170-172, 217-220 (1980)(describing how family copes after separation during different time intervals, and concluding that after several years, "[t]he negative effect of irregular, erratic visiting" was "clear" in terms of children's disappointment, anger and feeling of being unloved).

One prominent researcher in this area concluded that if a lesbian couple that has jointly brought up 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.”⁶⁴ In fact, cessation of the relationship between the child and co-parent or second parent “can cause extreme distress.”⁶⁵

Second, denying a person whom the child regards as a parent full legal status after a separation would send a harmful message to the child that one parent is less acceptable than or inferior to the heterosexual parents of other children. This stigmatization would unnecessarily harm children of same-sex parents.

CONCLUSION

Where both parents have fully participated in raising a child, the continuity of the same parental role in decision-making, care, and other child-rearing domains will, in appropriate cases, be in the best interests of the child. This Court should facilitate the best interests of the increasing population of children of gay and lesbian couples by assuring that the full array of parental rights and responsibilities are granted to both parents -- biological and nonbiological -- in a same-sex parenting

⁶⁴ Patterson, Children of Lesbian and Gay Parents, supra note 2, at 1037.

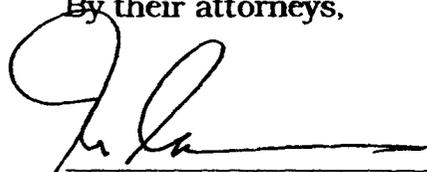
⁶⁵ Fiona Tasker & Susan Golombok, GROWING UP IN A LESBIAN FAMILY, supra note 33 at 12.

couple, just as occurs in the event of dissolution of a relationship by
opposite-sex couples.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I, Michael Asen, hereby certify under the penalties of perjury that I served the within brief by regular mail, postage prepaid, on December 20, 2002 to all counsel of record listed below.

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