

IN THE DISTRICT COURT OF APPEAL
THIRD APPELLATE DISTRICT

IN RE: The Marriage of,

THERESE CANO n/k/a
THERESE MASTERS,

CASE NO. 3D13-1897
LT CASE NO.: 05-029254 FC 07

Appellant,

vs.

ALEJANDRO CANO,

Appellee.

**MOTION FOR LEAVE TO FILE
AMICUS BRIEF IN SUPPORT OF APPELLANT**

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Comes now Home School Legal Defense Association, by and through counsel James H. Sullivan, III, and requests leave of this Court to file the attached brief *amicus curiae* in support of the Appellant. Because of our long history helping homeschoolers around the world, HSLDA has special expertise in providing courts with a broader perspective on the benefits of homeschooling than the lower court had before it.

The Home School Legal Defense Association is an international organization with over 82,000 members in all 50 states, the District of Columbia, and 36 countries. We have over 2,300 member families in Florida. Our mission is to protect and advance the right of parents to teach their children at home. Since our founding in 1983, HSLDA has been on the front line defending the constitutional right of parents to direct the education of their children by teaching them at home. HSLDA attorneys have been involved in scores of homeschool cases and have assisted in resolving thousands of legal contacts around the nation.

As amicus, Home School Legal Defense Association will address the significant amount of evidence available regarding the success of homeschooling as a national phenomenon. We will focus on academic and anecdotal evidence showing that homeschool graduates are academically and socially well prepared for life. This background will assist the Court in seeing the testimony of the Guardian ad Litem against the larger context of scientific evidence on the

effectiveness of homeschooling. The Guardian's incorrect testimony on an issue that was not properly before the court should have no bearing on the lower court's decision, and HSLDA is concerned that the lower court's decision may have a negative effect on the broader homeschool community, not just this family.

Appellant consents to the filing of an amicus brief, but counsel for Appellee opposes it.

Respectfully submitted on November 14, 2013,

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CERTIFICATE OF SERVICE AND OF COMPLIANCE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been e-mailed this 14th day of November, 2013 to:

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I HEREBY CERTIFY that this brief is submitted in Times New Roman 14- point font.

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HOME SCHOOL LEGAL DEFENSE ASSOCIATION,
IN SUPPORT OF APPELLANT**

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Clive R Belfield, <i>Home-schoolers: How well do they perform on the SAT for college admission?</i> in Bruce S. Cooper (Ed.), <i>Home schooling in full view: A reader</i> (Greenwich, CT: Information Age Publishing; Galloway, 2005)	15
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Gordon Dahl & Lance Lochner, <i>The impact of family income on child achievement</i> . Discussion Paper No. 1305-05, Institute for Research on Poverty, 2005	14
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Joan Ellen Havens, <i>A study of parent education levels as they relate to academic achievement among home schooled children</i> . Doctoral (Ed.D.) dissertation, Southwestern Baptist Theological Seminary, Fort Worth TX (1991)	13
Jon Wartes, <i>The relationship of selected input variables to academic achievement among Washington's homeschooled students</i> . (Woodinville, WA, September 1990).....	14
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Oregon Department of Education, Office of Student Services, <i>Annual report of home school statistics 1998-99</i> (Salem, OR. May 20, 1999).....	11
Patrick Basham, John Merrifield & Claudia R. Hepburn, <i>Home Schooling: From The Extreme To The Mainstream</i> , 2nd ed 6, The Fraser Institute 2007.....	18
Paul Jones & Gene Gloeckner, <i>First-Year College Performance: A Study of Home School Graduates & Traditional School Graduates</i> , Journal of College Admission 183 (Spr. 2004), at 17, 20.....	16, 17
Paula Wasley, <i>Home-Schooled Students Rise in Supply and Demand</i> , The Chronicle of Higher Education 54(7), 1, (Oct. 12, 2007)	18
Rhonda A. Galloway & Joe P. Sutton, <i>Home schooled and conventionally schooled high school graduates: A comparison of aptitude for and achievement in college English</i> , Home School Researcher, 11(1), 1-9 (1995)	15
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The published materials referred to in this brief that are not readily available on the Internet are held by amicus and can be made available on request.

INTEREST OF *AMICI CURAE*

The Home School Legal Defense Association is an international organization with over 82,000 members in all 50 states, the District of Columbia, and 36 countries. We have over 2,300 member families in Florida. Our mission is to protect and advance the right of parents to teach their children at home. Since our founding in 1983, HSLDA has been on the front line defending the constitutional right of parents to direct the education of their children by teaching them at home. HSLDA attorneys have been involved in scores of homeschool cases and have assisted in resolving thousands of legal contacts around the nation.

One question familiar to almost every parent who has chosen to homeschool—“What about socialization?”—has persisted down through the years even as homeschooled children have demonstrated success in college and in their adult lives. This question about socialization reflects an ignorant bias based on unsupported stereotypes. The persistence of this question, however, has prompted a large body of academic research about homeschooled children and socialization. The conclusion of these studies—conducted over decades—is that homeschooled children are socialized at least as well as their traditionally-educated peers, if not better.

The Guardian ad Litem in this case testified that she had a “gut reaction” that “you know what, maybe the kids should have socialization with other kids and

go to a small school.” Appellant’s Brief at 15 (T.80). Based in part on this testimony and on the trial court’s own apparent preconceived notions about socialization, (Appellant’s Brief at 17, T.111), the trial court ordered the children to discontinue homeschooling and be placed in public school.

As explained in Appellant’s brief, the trial court addressed the homeschooling issue even though it had not been properly raised by the pleadings. The trial court compounded that error by relying on the non-expert opinion testimony of the Guardian ad Litem regarding the children’s social and educational environment and on its own preconceived bias.

If the Appellant had been on notice that a change in the educational setting would be an issue she could have marshaled considerable evidence to counter the Guardian ad Litem’s gut reaction. Numerous studies and surveys have shown that children who are homeschooled thrive educationally and socially both during and after their compulsory-education years. As one researcher concluded, “Despite the widespread belief that home schooling is socially isolating, the research documents quite clearly that home-schooled children are very much engaged in the social routines of their communities.”¹

The purpose of this amicus brief is to assist the court by giving background and context to homeschooling, and to bring to the Court’s attention a vast array of

¹ Richard G. Medlin, *The Question of Socialization*, Peabody Journal of Education 75(1 & 2), 112-113 (2000).

academic support to show that homeschooling does in fact meet the social and academic needs of children.

SUMMARY OF ARGUMENT

As explained by the Appellant in her brief, the trial court addressed the issue of whether homeschooling was an effective educational plan for the children even though it was not properly raised by the pleadings. The GAL testified that based on mother's "ultra-Catholic beliefs," (T. 79), it was the GAL's "gut reaction" (T.80) that the children should attend public school. No experts, studies, or other published works were cited to support the GAL's "gut reaction." But the GAL's advice became central to the trial court's order. In reality, however, there is an abundance of published social-science and other research that demonstrates homeschoolers' success, both in and after their school years, and often in ways superior to their publicly- or privately-educated counterparts.

If the trial court's unsupported bias were allowed to stand, in the face of overwhelming evidence to the contrary, this case could become a model for other courts around the state to follow. This result would harm homeschoolers across the state and potentially across the nation. The trial court's order placing the children in public school should be reversed.

ARGUMENT

As argued by Appellant, she had no warning that the trial court was considering ordering the children out of their accredited homeschool program and dropping them in the local public school, an environment none of them were familiar with. Had Appellant had the opportunity to present evidence against this major life change, there is a substantial amount of evidence that she could have presented to show that homeschooling can and does produce well-socialized and academically-prepared children.

I. Homeschooling Produces Well-Developed and Socialized Adults

Homeschooling has grown rapidly in the United States since the early 1980s, and especially so in the past decade. “The increase in the homeschooling rate (from 1.7 percent in 1999 to 2.2 percent in 2003 to 2.9 percent in 2007) represents a 74 percent relative increase over the 8-year period and a 36 percent relative increase since 2003.”² Early reports from the United States Department of Education’s National Center for Educational Studies show that homeschooling continued to grow from 2.9 percent of the school-age population in 2007 to 3.4 percent in 2012.³ It is

² U.S. Department of Education, National Center for Education Statistics, *1.5 Million Homeschooled Students in the United States in 2007*, NCES 2009–030, December 2008, at <http://nces.ed.gov/pubs2009/2009030.pdf>.

³ U.S. Department of Education, National Center for Education Statistics, *Parent and Family Involvement in Education, from the National Household Education Surveys Program of 2012*, NCES 2102-028, Table 7, August 2013.

currently estimated that 1,770,000 million school-age children are homeschooled in the United States.⁴

“Socialization may be defined as the process by which a child acquires the skills, behavior patterns, values, and motivation needed for competent functioning in the culture in which the child is growing up.”⁵ As homeschooling has increased in popularity, it has been the subject of much social-science research into this very issue.⁶ Most relevant to this case is research indicating that homeschooled students develop into well-rounded and socially-integrated adults and become responsible citizens who are productive members of society.

Noteworthy among this body of research is Brian Ray’s 2004 study *Home Educated and Now Adults*.⁷ This study surveyed 5,254 homeschooled adults ages 18 through 24, and found that homeschoolers are involved in their community, civics, and higher education to a greater extent than their traditionally educated peers. For example, 50.2% of homeschooled students go on to some form of college,

http://nces.ed.gov/pubs2013/2013028/tables/table_07.asp; visited November 7, 2013.

⁴ Id.

⁵ Richard G. Medlin, Ph.D., *Homeschooling and the Question of Socialization Revisited*, Peabody Journal of Education, Volume 88, Issue 3, 2013, at 285.

⁶ Tanya K. Dumas, Sean Gates, & Deborah Schwarzer, “Evidence for Homeschooling: Constitutional Analysis in Light of Social Science Research,” *Widener Law Review* (forthcoming), draft available at <http://ssrn.com/abstract=1317439>.

⁷ Brian D. Ray *Home educated and now adults: Their community and civic involvement, views about homeschooling, and other traits* (Salem, OR: National Home Education Research Institute, 2004).

compared to 34% of their peers; 8.7% received associates degrees, compared to 4.1% of their peers, 11.8% received bachelor's degrees, compared to 7.6% of their peers; and 0.8% received master's degrees, compared to 0.3% of their peers.

Furthermore, 95% of those surveyed responded that they either agreed or strongly agreed that they were glad to be homeschooled; 92% agreed or strongly agreed that being homeschooled gave them advantages in adulthood; 88% disagreed or strongly disagreed that homeschooling limited their educational opportunities; 94% disagreed or strongly disagreed that being homeschooled limited their career choices; and, 82% agreed or strongly agreed that they would homeschool their own children.

Homeschool graduates also ranked high in the areas of social and civic involvement. "Seventy-one percent of subjects were participating in any ongoing community service activity (e.g., coaching a sports team, volunteering at school, or working with a church or neighborhood association), while 37% of similarly aged U.S. adults and 39% of all U.S. adults did so in 1996. While 88% of these home-educated subjects were a member of an organization (e.g., a community group, church or synagogue, union, homeschool group, or professional organization), only 50% of similarly aged U.S. adults and 59% of all U.S. adults were in 1996."⁸ The study also revealed that homeschooled graduates were as tolerant, if not more so,

⁸ Id. 48, internal citations omitted.

of differing viewpoints than the general population, and that they were more civically involved.⁹

These results are not limited to this single study. Another study, presented to the Annual Meeting of the American Educational Research Association in 1995, looked at homeschooled students who went on to college and discovered that homeschoolers are often leaders on college campuses.¹⁰ This study looked at 60 students who had been exclusively homeschooled in high school, and compared them to the rest of the student population according to sixty-three indicators. Homeschooled students came in first in 43 of the 63 indicators. “Because many indicators for which home-schooled students took first place involved positions of leadership, Galloway concluded that home-schooled students were readily recognized for their leadership abilities. She stated flatly, ‘They are the leaders on campus.’”¹¹

Other studies demonstrate the same results. One study found that homeschooled children score in the 84th percentile for socialization, in contrast to their peers who scored in the 23rd percentile, and concluded that “children kept home are

⁹ Id. 48-49.

¹⁰ Rhonda A. Galloway, “Home Schooled Adults: Are They Ready for College?,” in *American Educational Research Association* (San Francisco: 1995), available at http://www.eric.ed.gov/ERICDocs/data/ericdocs2sql/content_storage_01/0000019b/80/14/0a/d0.pdf.

¹¹ Richard G. Medlin, *The Question of Socialization*, Peabody Journal of Education 75(1 & 2), 107-123, 117, (2000).

more mature and better socialized than those who are sent to school.”¹² Another study was unable to find a lack of adjustment among homeschooled students who went to college, and noted that “they appear to be able to adjust as well or better than traditionally schooled freshmen to collegiate life at a Christian college as measured by these various scales of college adjustment.”¹³ Yet another study found that “[c]ollege students who were previously homeschooled were found to be significantly more Agreeable, Conscientious and Open as compared to their peers in the national college-aged norms.”¹⁴

In a 2000 article published in the *Peabody Journal of Education*, Richard Medlin, Professor of Psychology at Stetson University, who teaches both Child Psychology and Childhood Behavior Disorders, surveyed the research concerning homeschoolers’ social skills. In none of the studies he reviewed were homeschoolers behind their traditionally educated peers. Rather, he found that homeschooled children were very engaged in their community and social lives:

Despite the widespread belief that home schooling is socially isolating, the research documents quite clearly that home-schooled children are very much engaged in the social routines of their communities. They are involved in

¹² Thomas C. Smedley, *Socialization of Home School Children*, *Home School Researcher* 8(3), 9-16, (1992).

¹³ Scott White, et al., *Emotional, Social & Academic Adjustment to College: A Comparison Between Christian Home Schooled & Traditionally Schooled College Freshman*, *Home School Researcher* 17(4), 1-7, (2007).

¹⁴ Scott White, Megan Moore, and Josh Squires, *Examination of Previously Home-schooled College Students with the Big Five Model of Personality*, *Home School Researcher* 25(1), 1-7, (2009).

many different kinds of activities with many different kinds of people. In fact, the flexible schedule and more efficient use of time home schooling affords may allow home-schooled children to participate in more extracurricular activities than children attending conventional schools.¹⁵

He likewise found that homeschoolers are learning proper social behavior.

The research confirms that home-schooled children are learning rules for appropriate social behavior and forming healthy attitudes toward themselves. Their social behavior and self-esteem are certainly no worse than those of children attending conventional schools and are probably better.¹⁶

More recently, Medlin conducted another study, and found: “Homeschooled children’s social skills scores were consistently higher than those of public school students. Differences were most marked for girls and for older children, and encompassed all four of the specific skills tested: cooperation, assertiveness, empathy, and self-control.”¹⁷ He concludes that “[t]here appears to be, therefore, a convergence of evidence from three different perspectives—parental report, objective observers, and self-report—that homeschooled children’s social skills are exceptional.”¹⁸

In 2013, Professor Medlin published a thorough review of the literature about homeschooling and socialization and concluded that:

Compared to children attending conventional schools, however, research suggest[s] that [homeschooled children] have higher quality friendships and

¹⁵ Medlin 2000, 112-113 *supra*.

¹⁶ *Id.*, 116

¹⁷ Richard G. Medlin, *Homeschooled Children’s Social Skills*, *Home School Researcher* 17(1), 1-8, (2006).

¹⁸ *Id.*

better relationships with their parents and other adults. They are happy, optimistic, and satisfied with their lives. Their moral reasoning is at least as advanced as that of other children, and they may be more likely to act unselfishly. As adolescents, they have a strong sense of social responsibility and exhibit less emotional turmoil and problem behaviors than their peers. Those who go on to college are socially involved and open to new experiences. Adults who were homeschooled as children are civically engaged and functioning competently in every way measured so far.¹⁹

Professor Medlin concludes that “[a]n alarmist view of homeschooling, therefore, is not supported by the empirical research.”²⁰ The GAL’s “gut reaction” embraces the alarmist view. That view reflects ignorance about the success of homeschooling in general and is contrary to the evidence in this case. While the GAL’s “gut reaction” is consistent with what Professor Medlin recognized is a “widespread belief that home schooling is socially isolating,” that belief is nothing more than a false stereotype as shown by decades of research into the question.

The Appellant quotes the trial court as asking her trial counsel, “Are you less of a parent because your children go to public school?” (Appellant’s Brief at 17, T.108). It is difficult to understand the relevance of that question. But the case could be made that the question suggests that the trial court applied personal views about homeschooling. The trial court continued, “When are they going to socialize? Is home school going to continue through college and/or professional school-

¹⁹ Richard G. Medlin, Ph.D., *Homeschooling and the Question of Socialization Revisited*, Peabody Journal of Education, Volume 88, Issue 3, 2013, at 284.

²⁰ *Id.*

ing? At which point are these children going to interact with other children and isn't that in their best interest?" (Appellant's Brief at 17, T.111). This Court should not allow unsupported, prejudicial bias to creep into custody decisions by the lower courts of this State.

II. Homeschooled Students Are Academically Successful

Since 1988 a number of studies have compared the academic success of homeschooled students with those in the public-education system. These include official studies by the Tennessee Department of Education in 1988²¹ and the Oregon Department of Education in 1999.²² Additionally, there have been at least five national studies of the success of homeschooling by professional researchers²³, in-

²¹ Tennessee Department of Education. *Tennessee statewide averages, home school student test results, Stanford Achievement Test, grades 2, 5, 7 and 9* (Nashville, TN, 1988).

²² Oregon Department of Education, Office of Student Services, *Annual report of home school statistics 1998-99* (Salem, OR. May 20, 1999).

²³ Brian D. Ray, *Academic Achievement and Demographic Traits of Homeschool Students: A Nationwide Study*, Academic Leadership Live: The Online Journal, 8 no. 1 (February 2010), available at http://www.academicleadership.org/emprical_research/Academic_Achievement_and_Demographic_Traits_of_Homeschool_Students_A_Nationwide_Study.shtml; Brian D. Ray, *A nationwide study of home education: Family characteristics, legal matters, and student achievement* (Salem, OR: National Home Education Research Institute, 1990); *Research Project*. Home School Researcher, 6(4), 1-7; (1990); Deani Van Pelt. *The choices families make: Home schooling in Canada comes of age*, Fraser Forum, March 2004, available at http://www.fraserinstitute.org/Commerce.Web/product_files/The%20Choices%20Fami-

cluding Lawrence Rudner, formerly the Director of the Education Resources Information Center (ERIC) Clearinghouse on Testing and Measurement, a research library sponsored by the U.S. Department of Education.²⁴

All of these studies demonstrate that homeschooling produces higher scores on educational-achievement tests than public-school students. Homeschoolers achieve, on average, between 15 and 30 percentile points above public-school averages. These studies reveal that this is true for all grade levels and subjects.

Studies also show that there is no significant correlation between teacher certification and educational success in homeschooling. Homeschool students achieve high results whether their parents possess a state teaching credential or not.²⁵

When the achievement of homeschooled students is analyzed according to the educational level of their parents (high school diploma, some college, college degree, etc.), some studies find that there is a small correlation between parental

[lies%20Make~~%20Home%20Schooling%20in%20Canada%20Comes%20of%20Age-Mar04ffpelt.pdf](#).

²⁴ Lawrence M. Rudner, *Scholastic achievement and demographic characteristics of home school students in 1998*, Educational Policy Analysis Archives, 7(8). (1999). available at <http://epaa.asu.edu/epaa/v7n8/>.

²⁵ Jennie F. Rakestraw, *Home schooling in Alabama*, Home School Researcher, 4(4), 1, 5 (1988); Brian D. Ray 1990, 13, 38 *supra*; Brian D. Ray, *Home schooling: The ameliorator of negative influences on learning?* Peabody Journal of Education 75(1 & 2), 71, 83, 90 (2000); Howard B. Richman, William Girten, & Jay Snyder, *Academic achievement and its relationship to selected variables among Pennsylvania homeschoolers*, Home School Researcher, 6(4), 9, 13, (1990); Rudner 1999, Table 3.11 *supra*.

education and student success while other studies find no correlation at all.²⁶ But these studies have all found that even those students whose parents have the lowest level of educational background still score higher than public-school averages.

In public schools, however, there is a strong correlation between the parents' educational level and student success.²⁷ In public schools, the children of highly-educated families are the achievers; students from families with lower-level educational backgrounds score significantly lower on achievement tests. Not so in homeschooling. There is virtually no educational disparity between the children of the most highly educated compared to those with less education. Every segment of the homeschooling community scores materially higher than public-school averages.

This same phenomenon can be found when educational results are segmented according to family income. It is tragic to see that in public schools, students

²⁶ Joan Ellen Havens, *A study of parent education levels as they relate to academic achievement among home schooled children*. Doctoral (Ed.D.) dissertation, Southwestern Baptist Theological Seminary, Fort Worth TX (1991), 92-97; Brian D. Ray, *Home education in Oklahoma: Family characteristics, student achievement, and policy matters*, National Home Education Research Institute (Salem, OR, 1992), 25; Rudner 1999, Table 3.12: "It is worthy to note that, at every grade level, the mean performance of home school students whose parents do not have a college degree is much higher than the mean performance of students in public schools. Their [homeschooled] percentiles are mostly in the 65th to 69th percentile range."

²⁷ Gary Neil Marks, *Are father's or mother's socioeconomic characteristics more important influences on student performance? Recent international evidence*. Social Indicators Research, 85(2), 293-309, (January 2008).

who come from low-income families have significantly lower results than students from high-income families.²⁸

In contrast, homeschooled children from every income level achieve results that are significantly above public-school averages. Moreover, in some studies of homeschoolers there is no material difference in the achievement of the children from the poorest families compared to the children from the richest families.²⁹ Although some studies show a marginal difference in homeschool student success based on family income, even in these cases, students from the lowest income levels achieve well above public-school averages.³⁰

Public schools appear unable to break the cycle of low achievement for students from low-income families. But homeschooling has demonstrated that children from low-income families succeed; and children of parents with lower educational levels also succeed.

²⁸ James S. Coleman & Thomas Hoffer, *Public and private high schools: The impact of communities* Chapter 5 (New York, NY: Basic Books, Inc, 1987); Gordon Dahl & Lance Lochner, *The impact of family income on child achievement*. Discussion Paper No. 1305-05, Institute for Research on Poverty, 2005 available at <http://www.eric.ed.gov/>; Catherine E. Snow, Wendy S. Barnes, Jean Chandler, Irene F. Goodman, & Lowry Hemphill, *Unfulfilled expectations: Home and school influences on literacy 2-3* (Cambridge, MA: Harvard University Press, 1991).

²⁹ Ray 2000, 83-90 *supra*; Terry Russell, *Cross-validation of a multivariate path analysis of predictors of home school student academic achievement*, Home School Researcher, 10(1), 9, (1994).

³⁰ Rudner 1999, Table 3.10 *supra*; Jon Wartes, *The relationship of selected input variables to academic achievement among Washington's homeschooleders*. (Woodinville, WA, September 1990), 79, 122.

Homeschoolers scored higher on the ACT than the national average for 10 years – from 1996 until 2006. In 2006, the ACT stopped reporting the results of homeschooled students separately. In 2006, the average ACT composite score for homeschooled students was 22.4, compared to the national average composite of 21.1.³¹ The 2005 average ACT composite score for homeschooled students was 22.5, compared to the national average of 20.9. Part of this academic achievement may be related to the fact that homeschooled kids spend their time in radically different ways than their public- or private-schooled counterparts. In a study of fourth graders, 0.1 percent of homeschooled children watched six hours or more of television per day whereas 19 percent of public-school children watched television at this staggering rate.³²

Studies also show that homeschooled graduates demonstrate success and do as well or better, on average, than the general public in all measures of adult success. These measures include the rates of matriculation in college, completion of college, civic engagement, and community service.³³

³¹ *Once Again Home-schoolers Score High on the ACT Exam*, HSLDA, July 31, 2007, available at <http://www.hslda.org/docs/news/hslda/200707310.asp>.

³² Rudner 1999, Table 2.10 *supra*.

³³ Clive R Belfield, *Home-schoolers: How well do they perform on the SAT for college admission?* in Bruce S. Cooper (Ed.), *Home schooling in full view: A reader* (Greenwich, CT: Information Age Publishing; Galloway, 2005), 167-177; Rhonda A. Galloway & Joe P. Sutton, *Home schooled and conventionally schooled high school graduates: A comparison of aptitude for and achievement in college English*, *Home School Researcher*, 11(1), 1-9 (1995); Paul Jones & Gene Gloeckner,

The evidence in this case shows that all of the children were performing well academically. The only issue involved a suggestion that T.C., who was eight years old at the time, needed extra attention because he was reading below grade level. The psychologist who made this recommendation did not recommend changing the educational setting. If every child who was reading below grade level in the public schools required a complete change in educational setting as a result, the public schools would be in a great deal of trouble indeed.

It should go without saying that some children will struggle with an aspect of their education no matter where they are being instructed and no matter how excellent the educational program. Revoking a mother's right to homeschool her children because one needed extra help in reading is not an educationally sound approach. It is not supported by the evidence in the record. And it certainly does not rise to the level of a material change in circumstances necessary to modify a custody order.

III. Homeschooled Students Do Well In College

Homeschool graduates build on their solid secondary education when they go to college. Data from Colorado reveal that “academic performance analyses indicate that homeschool graduates are as ready for college as traditional high school

First-Year College Performance: A Study of Home School Graduates & Traditional School Graduates, Journal of College Admission 183 (Spr. 2004), at 17, 20; Ray 2004, *supra*.

graduates and that they perform as well on national college assessment tests as traditional high school graduates.”³⁴ Another study looked at GPAs and professional aptitude tests and determined that homeschool graduates performed just as well as public- and private-school graduates. In 2004 the Journal of College Admission published an article by an admissions director from Ball State University who reported that “[r]esearch showed that our homeschooled students had above-average SAT and ACT scores (1210 and 29 respectively). They also performed better academically. They had a combined cumulative grade point average of 3.47, compared to the 2.91 shared by the general student population.”³⁵ Another study found that college freshman who had been homeschooled had slightly higher GPAs and higher entrance SAT scores than private- and public-schooled students, participated in more activities, and were satisfied with their homeschool experience.³⁶

In addition to the academics, homeschooled students are emotionally prepared for college. For instance, one study involving freshman students at a private liberal-arts college found that homeschooled students reported “significantly fewer anxiety symptoms than a matched sample of traditionally schooled students.”³⁷ Using the College Adjustment Scale (a measure of emotional, behavioral, social, and

³⁴ Jones & Gloeckner, 2004.

³⁵ Gary Mason, *Homeschool Recruiting: Lessons Learned on the Journey*, Journal of College Admission 185 (Fall 2004), at 2.

³⁶ Erika M. L. Jones, *Transition from Home Education to Higher Education: Academic and Social Issues*, Home School Researcher 25(3), 1-9, (2010).

³⁷ White, et al., 2007, *supra*.

academic problems used by university counseling centers), researchers found no other significant differences between the two groups of students.

Accordingly, colleges have recognized the potential of homeschooled students. The Chronicle of Higher Education has reported that as early as a decade ago, “over 700 post-secondary institutions across the United States, including Harvard University, Yale University, Stanford University, MIT, Rice University, and the Citadel, admitted homeschooled students.”³⁸ Barmak Nassirian, associate executive director of the American Association of Collegiate Registrars and Admissions Officers explains: “After years of skepticism, even mistrust, many college officials now realize it’s in their best interest to seek out home-schoolers.”³⁹ Some are even actively recruiting homeschoolers. “UC Riverside [is] the first UC campus and one of the first public research universities in the nation to recruit students who were home-schooled at the kitchen table or on the road instead of inside a classroom. ‘These students are very prepared for college-level work and doing

³⁸ Paula Wasley, *Home-Schooled Students Rise in Supply and Demand*, The Chronicle of Higher Education 54(7), 1, (Oct. 12, 2007); see also Patrick Basham, John Merrifield & Claudia R. Hepburn, *Home Schooling: From The Extreme To The Mainstream*, 2nd ed 6, The Fraser Institute 2007, available at http://www.fraserinstitute.org/COMMERCE.WEB/product_files/Homeschooling2.pdf. Basham at 15.

³⁹ Alan Scher Zagier, *Colleges Coveting Home-Schooled Students*, AP, September 30, 2006, available at http://www.boston.com/news/nation/articles/2006/09/30/colleges_coveting_home_schooled_students/.

very well here,' said Merlyn Campos, interim admissions director."⁴⁰ Regina Morin, director of admissions at Columbia College in St. Louis, Missouri, says the school is seeing more homeschoolers apply each year. "They tend to be better than their public school counterparts," she said. "They score above average on tests, they're more independent, they're often a grade ahead."⁴¹

CONCLUSION

In the past thirty years homeschooling has gained in popularity every year. Every mother who homeschools her children is familiar with the unfortunate myths that arose about socialization and academic preparation. Those myths have been empirically dispelled by a wide variety of research. On all counts homeschooling meets the standard set by public schools, and virtually all of the research demonstrates that homeschoolers far exceed that bar.

The Guardian ad Litem's "gut reaction" was simply wrong and the trial court erred by relying on it. The unfair, unsupported bias against homeschoolers should not be allowed to persist in the lower courts of this state. The trial court's order placing Appellant's children in public school should be reversed.

⁴⁰ Elaine Regus, *UC Riverside a leader in courting home-schooled students*, The Press-Enterprise, November 23, 2007, available at http://www.pe.com/local-news/highereducation/stories/PE_News_Local_D_home-school24.3085ff7.html.

⁴¹ Georgina Gustin, *Home-school numbers growing*, St. Louis Post-Dispatch, October 3, 2007, available at <http://forum.gon.com/showthread.php?t=141756>.

Respectfully submitted this the 14th day of November, 2013

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CERTIFICATE OF SERVICE AND OF COMPLIANCE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been e-mailed this 14th day of November, 2013 to: Counsel for Appellant: Karen J. Haas, Law Offices Of Karen J. Haas, 13805 S.W. 83rd Court, Miami, FL 33158 (KJHLaw@gmail.com); Counsel for Appellee: Helen Hauser, Esq., Dittmar & Hauser, P.A., 201 Alhambra Circle, Suite 105, Coral Gables FL 33134-5107 (hhauser@rdhlegal.com). I HEREBY CERTIFY that this brief is submitted in Times New Roman 14- point font.

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