

CASE NO. 23-16031

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

AURORA REGINO,

Plaintiff-Appellant,

v.

KELLY STALEY, Superintendent,

Defendant-Appellee,

and

CAITLIN DALBY; REBECCA KONKIN; TOM LANDO;
EILEEN ROBINSON; and MATT TENNIS,

Defendants-Appellees.

On Appeal from the United States District Court
for the Eastern District of California

Case No. 2:23-cv-00032-JAM-DMC

**MOTION OF OUR DUTY FOR LEAVE TO FILE BRIEF
AS *AMICUS CURIAE* SUPPORTING
PLAINTIFF-APPELLANT AND REVERSAL**

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Nov. 6, 2023

MOTION FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE

Pursuant to Federal Rule of Appellate Procedure 29(a)(3), Our Duty respectfully moves this Court for leave to file brief of amicus curiae in the above-captioned proceeding, *Regino v. Staley, et al.* (No. 23-16031). Pursuant to 9th Circuit Rule 29-3, counsel for amici attempted to obtain the consent of counsel for the parties prior to moving the Court for leave. Counsel for Plaintiff-Appellant consented. Counsel for Defendants-Appellees did not respond to the voicemail messages left, or emails sent, by counsel for amicus to the three attorneys of record on Friday, Nov. 3, 2023, at approximately 3:25 p.m.

INTEREST OF MOVANT

Our Duty is an international nonpartisan, nonreligious, and nonprofit group formed in 2018, with chapters in the UK, Australia, Canada, and the United States. Our members are parents and their supporters who know that the medical pathway for young people with gender dysphoria is harmful. Our Duty's mission is to support our member parents, to safeguard children and families from harmful gender ideology, and to provide education and resources to a public in desperate need. Our Duty works also to improve the provision of beneficial healthcare for

our families. We challenge the authorities and organizations that facilitate harm, and encourage them to change.

THE PROPOSED BRIEF IS DESIRABLE AND RELEVANT

The Court should grant this motion for leave to file the accompanying brief as Amicus Curiae because of the special insights, facts, and data the brief can provide to judges in this case. “[T]he criterion for deciding whether to permit the filing of an amicus brief should be the same: whether the brief will assist the judges by presenting ideas, arguments, theories, insights, facts, or data that are not to be found in the parties’ briefs.” *Voices for Choices v. Illinois Bell Telephone Co.*, 339 F.3d 542, 545 (7th Cir. 2003). Amicus Curiae offers “a unique perspective” that “can assist the court of appeals beyond what the parties are able to do” on matters of the real-world experiences of parents who help their children navigate through gender dysphoria to emerge at peace and comfortable in their bodies and natal sex. *Nat’l Org. for Women v. Scheidler*, 223 F.3d 615, 617 (7th Cir. 2000) (citing *Ryan v. Commodity Futures Trading Comm’n*, 125 F.3d 1062, 1063 (7th Cir. 1997)).

This brief presents the Court with something that studies, graphs, and data cannot: the real-life experiences of parents of gender-confused children who were secretly socially transitioned by their schools. This testimony from members of

amicus Our Duty is invaluable, real-time proof that with love and support, children can and do desist from transgender identification, returning from the depths of mental distress and gender dysphoria to health and feeling at ease in their bodies and their natal sex. These parents are a microcosm of thousands around the world who can state unequivocally that their child's gender dysphoria was transitory, and that with appropriate support and medical care for the child's underlying distress or comorbidities, the dysphoria evaporated. Their children were thus freed to pursue their lives and futures with their bodies intact and fully functioning—and absent the scars and irreversible damage caused by drugs or surgery now provided to all too hastily to vulnerable children. The concept of “child gender transition” is roiling the nation, and in Our Duty's opinion, is the most important issue of our time. It is our children who will be charged with leading this country as its policymakers, its jurists, its bridgebuilders, its familymakers, and its protectors. They must be allowed to grow up whole and unbroken. The voices who would tell this Court that transgenderism is an acceptable, even predictable, part of adolescence to which parents must resign themselves must be countered. The proposed brief does just that, and offers “information on matters of law about which there was doubt, especially in matters of public interest.” *United States v. Michigan*, 940 F.2d 143, 164 (6th Cir. 1991) (citation omitted).

For these reasons, movant respectfully requests that this Court grant this

motion and allow its participation as Amicus Curiae in support of Plaintiff-Appellant and reversal.

Respectfully submitted,

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Dated: Nov. 6, 2023

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Respectfully submitted,

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Dated: Nov. 6, 2023

CERTIFICATE OF COMPLIANCE

This motion complies with the type-volume limitations of Federal Rule of Appellate Procedure 27(d)(2)(A) as it contains 5,633 words, excluding the parts exempted by Federal Rule of Appellate Procedure 32(f). This motion complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the typestyle requirements of Federal Rule of Appellate Procedure 32(a)(6) as this motion has been prepared in a proportionally spaced typeface using Microsoft Word 10 in 14-point Times New Roman font.

Dated: November 6, 2023

s/ Jennifer W. Kennedy

Counsel for Amicus Curiae

CERTIFICATE OF SERVICE

I hereby certify that on November 6, 2023, I electronically filed the foregoing motion with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit for filing and transmittal of a Notice of Electronic Filing to the participants in this appeal who are registered CM/ECF users.

Dated: November 6, 2023

s/ Jennifer W. Kennedy

Counsel for Amicus Curiae

CORPORATE DISCLOSURE STATEMENT

Our Duty has no parent companies, subsidiaries, or affiliates, and does not issue shares to the public.

Dated: November 6, 2023

s/ Jennifer W. Kennedy

Counsel for Amicus Curiae

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IDENTITY AND INTEREST OF AMICUS CURIAE

Our Duty is an international nonprofit organization founded in 2018 that supports parents in protecting children from the dangers of gender ideology. The nonreligious, nonpartisan organization has over 900 parent members in 17 countries. Its mission is:

- To support the families of children who identify as transgender;
- To help families find alternative resolutions to gender dysphoria other than “gender affirmation” approaches that include hormonal and surgical interventions;
- To provide information to these families and the wider society about the dangers of gender ideology; and
- To pressure government and health services to develop public policies and treatments that serve the best interests of children struggling with gender identity.

Gender ideology has permeated the culture with stunning speed, influencing medical, government, and family decisions, and creating an urgent need for clarity, education, and public discourse. Our Duty exists to help parents navigate

these difficult issues. However, Our Duty understands that its mission fundamentally depends on parents being empowered to know about and make informed decisions regarding their children's care. As such, Our Duty and its members have a profound interest in the outcome of this case.

INTRODUCTION AND SUMMARY OF ARGUMENT

Plaintiff-Appellant alleges that the Defendants-Appellees unilaterally created a secret “transgender support plan” (“Plan”) for her 11-year-old daughter, after seizing upon the child’s one-time statement that she felt like a boy. Under that Plan, school faculty and staff socially transitioned Plaintiff-Appellant’s daughter into a male identity by publicly identifying her on campus with a male name and pronouns, and treating her as though she were a male, all while hiding the Plan from her mother.

The California Public Department of Health, which has authority over public-school health departments, requires schools to obtain parental consent for innumerable things, including medical treatments. Schools cannot even provide Tylenol to children to treat a headache, or Midol to treat menstrual cramps, without a parent’s consent.

Have the Defendants-Appellees thus violated Plaintiff-Appellant’s “substantive due process right in the care, custody, and control of their child”? The district court below erroneously said no, and also found it impossible for Plaintiff-Appellant to amend her complaint to add facts sufficient to allege a due process violation of her fundamental right to direct the care and upbringing of her child.

Amicus Our Duty submits this brief to assist the Court in understanding why the district court's decision must be overturned.

As shown in Part I, secret social transition plans are harmful to children. A September 14, 2023 order, in Mirabelli v. Olson (U.S. District Court, Southern District of Cal., Case No. 3:23-cv-00768-BEN-WVG) ("Mirabelli") sets forth in detail the basis for its preliminary injunction ruling holding Escondido Unified's policy requiring teachers to deceive parents about their children's gender identity violated the U.S. Constitution.

Part II offers personal testimony from *Amicus* Our Duty's members that illustrate how critical it is for the Court to recognize this opportunity to affirm parents' fundamental rights to control their children's upbringing, including managing issues regarding gender identity. These compelling stories expose the harm that comes from school officials excluding parents from important medical and mental health decisions for their children. The parents' experiences demonstrate the power of a school's unilateral decision to socially transition a student. Social transition tips the scale on whether the child will move forward with irreversible medical intervention, or desist and return to comfort in their natal body. School staff are not authorized or trained to determine which child would benefit or be harmed by social transition.

The parents' stories show how school officials can get diagnoses terribly wrong, ignoring critical mental health issues in favor of a trendy diagnosis that, unless corrected, can permanently sterilize and disfigure children. The best result for a gender dysphoric child is for that child to have the distress resolved without medicalization.

Our Duty's members affirm that teachers have limited and temporary exposure to their students, and even more limited knowledge of their actual needs. In contrast, parents care for their children from birth through adulthood and beyond. Parents are constantly present, unlike school staff who are not present before and after school hours, or during summer, or after graduation. Parents' relationships with children don't end when the child changes grades or schools. Parents painstakingly research their child's cribs and carseats, their doctor and dentist; they carefully evaluate schools, sports, and even friend groups based upon their safety and beneficial value for their child. Parents are the only people presumed as a matter of law to have the sufficient knowledge and vested interest in their children's welfare to direct medical or psychological treatment of their child.

Nothing about rapid onset gender dysphoria changes these basic facts or longstanding Supreme Court caselaw recognizing parents'

fundamental rights. For the reasons set out in Plaintiff-Appellant's opening brief, and herein, this Court must reverse the decision below.

ARGUMENT

I. A Recent Federal Order Concluded That Socially Transitioning Students Without Parental Knowledge Was Harmful.

The court in *Mirabelli* enjoined EUSD's official "parent secrecy policy" that required teachers to lie to parents. The plaintiff-teachers objected to the forced deception and nondisclosure to parents of a student's public expression of his or her "gender identity" as the opposite sex.

The court held that the deception policy "is as foreign to federal constitutional and statutory law as it is medically unwise." The ruling was based in part on the Declaration of Dr. Erica Anderson, a transgender woman, who opines: "Embarking upon a social transition based solely upon the self- attestation of the youth without consultation with parents and appropriate professionals is unwise." (Id. at p. 11:2225)

The *Mirabelli* Order ends with an unequivocal denouncement of the parent-secrecy policy:

The school's policy is a **trifecta of harm**: it harms the child who needs parental guidance and possibly mental health intervention to

determine if the incongruence is organic or whether it is the result of bullying, peer pressure, or a fleeting impulse. It harms the parents by depriving them of the long recognized Fourteenth Amendment right to care, guide, and make health care decisions for their children. And finally, it harms plaintiffs who are compelled to violate the parent's rights by forcing plaintiffs to conceal information they feel is critical for the welfare of their students—violating plaintiffs' religious beliefs.

II. The Experiences of Our Duty's Parent Members Illustrate The Irreparable Harm School Districts Cause When They Interfere With Parents' Rights To Direct Their Children's Upbringing And Medical Care.

Amicus Our Duty exists to support parents like Appellant who are raising children amidst an epidemic of gender confusion unlike anything in recorded human history.¹ Our Duty's parent members believe that parents are in the best position to know what is in their children's best interests, and that they alone possess the natural duty and constitutional right to make the needed decisions for their children.

¹ See e.g., Joanne Sinai, Rapid onset gender dysphoria as a distinct clinical phenomenon. *J. Pediatrics* (March 2022) <https://doi.org/10.1016/j.jpeds.2022.03.005>.

The U.S. Constitution appropriately assumes that most parents genuinely love their children and desire the best for them. Proponents of parent-secrecy policies assume the opposite; they argue that state employees are better equipped to make life-altering decisions for all children. Deceiving parents is justified by an unsubstantiated conclusion that all parents will abuse their children if they learn that their children are gender dysphoric. Our Duty members have gender-confused children, and none of them have abandoned or abused their minor children.

Parents always have the right to know all health and safety information pertaining to their minor children. If gender dysphoric children are at risk for suicide, shouldn't the parent know in order to protect the child? 95.5% of suicides of children ages 10-14 occur at home.² From 2009 to 2019, an average of 5.3 students per year took their lives at school,³ while 546 children ages 10-14 and 6062 ages 15-24 committed suicide at home.⁴ How can a parent look for signs of self-harm if he is unaware his child identifies in a category that makes him or her more susceptible to suicidality?

² Understanding the Characteristics of Suicide in Young Children, Institute of National Mental Health (December 14, 2021)

³ Number of Suicides of Youth ages 5-18 years at school in the United States from 1992 to 2020, Statista.com.

⁴ www.CDC.gov/nchs/hus/2002-2021/LCODAge.pdf.

Our Duty provides these stories from a representative cross-section of its members. These parents had to fight their children's schools for the right to know how government actors were influencing their children and secretively directing their children's mental health care.

These accounts demonstrate how overzealous teachers and counselors use their unique positions of authority and trust to pressure suggestible children into adopting or concretizing a transgender identity. These parents' battles against public schools are a microcosm of the parents nationwide who are forced to go to astonishing lengths to assert their rights to control their children's upbringing. These stories show that school officials usurp parental rights by assuming that social transition is always in a child's best interests. Finally, the parents' stories demonstrate how drastically a child's well-being can change once a parent reclaims the child's care and is able to provide the appropriate mental health treatment for their child. "Gender" is not immutable.

The testimony also proves that the battle over transgender issues does not fall along political lines. Every parent but two was a Democrat before their children fell captive to gender ideology. These parents are generally supportive of progressive causes. The brazen willingness of officials at their children's schools to displace their parental authority and determine that their children

were not “born in the right body” and should socially transition to the opposite sex is shocking.

These personal accounts underscore the devastating injuries that parents and children suffer when parents’ fundamental rights are violated.

A. Sue Y, Mother of Detransitioned⁵ Female

Sue Y⁶ and her 18-year-old daughter, G, live in California. When G started puberty at age 12, her demeanor changed. G started to dress in dark and oversized clothes, her personality went from pleasant to agitated, and she became suicidal. Amidst these changes, G told her mom she was transgender.

Sue took G to a gender clinic at a Kaiser Permanente mental health facility. There, outside her mother’s presence, a clinic staffer told G about hormonal treatments and surgeries she could have “to make her authentic.” Afterwards, the clinic told Sue she had to choose whether to have “a dead daughter or a live son.” The professionals offered Sue no alternative treatment options.

⁵ The term “detransitioned” as used in this brief indicates that a person pursued medical treatment in some fashion in furtherance of a transgender identity—e.g. puberty blockers, hormones, and/or surgeries—but then ceased such treatments and embraced his or her biological sex.

⁶ Due to the frequent and intense animus that is often directed at parents or children who resist the push to pursue a “gender transition,” many Our Duty members use pseudonyms in this brief to protect themselves and their children from retaliation. The identity of each member whose story is told here is known to Our Duty.

Terrified, Sue followed the gender clinic's advice and authorized puberty blockers. Sue communicated with G's school about her diagnosis and treatment plan, and the school agreed to cooperate with G's social transition.

For two and a half years, Sue was fully committed to G's social and medical transition. But G's "authentic" self did not, as promised, emerge. Instead, G's mental health deteriorated. G began cutting herself, became suicidal and borderline anorexic, and was shuttled in and out of psychiatric hospitals. Sue eventually took G to an out-of-state psychiatrist, who determined that G was not making progress because she was suffering not from gender dysphoria but from underlying mental health issues. In the psychiatrist's judgment, it was best for G to discontinue identifying as trans.

With a new diagnosis, Sue contacted G's public school to update them and instruct the staff to cease all counseling and stop referring to her daughter as a boy. G's psychiatrist informed the school that he was now managing G's care, and that G would be confused and her progress impeded if she were to receive conflicting advice from the school counselor.

The school counselor was furious and refused to follow Sue's and the psychiatrist's directives. The counselor called Child Protective Services ("CPS"). Soon thereafter, school staff ambushed G at school, pulled her into a "safe space," and told her she would be arrested if she did not speak to the CPS officer

waiting in a nearby room. CPS investigated Sue, but she avoided emotional-abuse charges by showing the agent photos of her family clad in LBGTQ gear during the time that G was transitioned.

Sue removed G from the school and, at G's request, enrolled her in an all-girl's high school. G is now a well-adjusted young woman who is enrolled in an all-girls college.

B. Erin Friday, Mother of Desisted⁷ Female

Erin Friday's daughter, P, was 11 when a sex-ed presentation at her California public school suggested that students "could have been born in the wrong body." Within a week, five of P's classmates had adopted labels from the LBGTQ community. P started with "pansexual," then later identified as a lesbian. During the COVID-19 lockdowns, P adopted a transgender identity. Erin learned that after the sex-ed class, P had secretly spent hours on pornography-filled websites, in conversation with "trans-identified" adults and older minors who advised P that her depression, anxiety, and loneliness were because she was a transboy. The online chats were filled with young girls who

⁷ The term "desisted" as used in this brief indicates that a person identified as something other than their sex, but did not pursue medical interventions in furtherance of that belief, and then embraced his or her biological sex.

were teaching even younger girls to dissociate from their bodies and send men provocative pictures in exchange for gifts.

When online high school started, P's teachers encouraged her to share her chosen name and pronouns with the class. Like many of her female classmates, P chose a male name and male pronouns. The school adopted P's new male identity without informing or seeking permission from Erin.

Erin called P's school, incensed that counselors who hadn't even met P in person believed it was their prerogative to undermine Erin's parental rights and solidify P's trans identity. The administration did not justify its conduct, but merely insisted that the school was a "safe space."

The school then reported Erin to public authorities: first CPS, and then the police. Not only did the school declare itself the "safe space"; it judged Erin "unsafe" because she disagreed with their zeal to declare P transgender. Fortunately, Erin was able to avoid official abuse claims.

Erin removed P from her public school, but the damage was done: P was now invested in her trans identity. Her teachers, the second most influential group of adults in her life, had created a schism between child and parent. P was barely getting out of bed, and not eating, showering, or brushing her teeth. Erin scoured her house to eliminate anything P might use to end her life. Erin also

bought a safe to lock away money, passports, and credit cards, to prevent P from trying to run away.

It took almost two years for Erin to repair the damage that P's school had wrought by telling P that she was transgender and that her mother was a hateful bigot. P is now happy in her female body and wishes she could forget her "trans" stage.

C. Ann M., Lesbian Mother of a Desisted Male

Ann M. is a public-school teacher in Chicago, where she lives with her wife and 16-year-old biological son, D. D had an unremarkable childhood with no signs of gender dysphoria. He was socially awkward, however, and most comfortable with a small, tight-knit group of friends. Still, D was comfortable in his male body and enjoyed stereotypical male activities like playing sports. In seventh grade, D was diagnosed with attention-deficit disorder and anxiety, and his parents took him to a psychologist for treatment.

In the eighth grade, in a text message, D told his parents he was transgender. Ann figured D was simply exploring various identities and left the matter to D's psychologist.

Over the next year, D's mental health declined. Just as D was adjusting to high school, COVID-19 lockdowns left him cut off from friends. D stayed in his

room most of the time, gained significant weight, and was rude and aggressive toward his parents.

Ann thought D might be struggling with his sexual identity. So, she took him to a Gay Straight Alliance (GSA) outing, a student group she had once led. Ann was surprised to find that the group was no longer focused on supporting same-sex-attracted youth but was instead encouraging gender transitions.

Before D started 10th grade, he asked his mom to tell the school to use his new female name. Ann refused, unwilling to solidify his false identity. D, however, went behind his mom's back and asked his teachers to use his female name. They complied; none informed Ann or her wife. One of D's teachers reached out to D privately through Microsoft Teams, specifically to avoid detection by his parents. The teacher told D that she was working with the school counselor, and encouraged D to "stay true to yourself" by maintaining a female identity.

When Ann found out that D's school was secretly socially transitioning her son, she felt betrayed. D's therapist, who had been working with him for years, and his pediatrician, who knew him since birth, suspected that his trans identity was a maladaptive coping mechanism stemming from his depression.

Fortunately, after Ann confronted the school district, D's school reversed course and returned to addressing D's son by his birth name.

Ann spent a great deal of time with D to help him understand why she did not believe he was transgender and why a social transition would be harmful. She showed him research on the exponential increase in children identifying as trans.⁸ She showed him how Dr. McEvenue, a plastic surgeon in Canada, had bragged on social media about how much breast tissue he had removed from healthy teenage girls.⁹ She watched “The Trans Train” with D, a Swedish documentary exposing the harms of puberty blockers, hormones, and surgeries, and relaying stories from detransitioners.¹⁰

D ultimately cut his long hair and returned to wearing male clothing. D not only reclaimed his male name, but he told his mom it was a relief. His mother’s leadership had given him the cover he needed to walk back his trans identity.

⁸ See., e.g., Dianna Kenny, *Children and young people seeking and obtaining treatment for genderdysphoria in Australia: Trends by state over time (2014-2018)*, (Sept. 4, 2019), <https://web.archive.org/web/20230323100819/https://diannakenny.com.au/k-blog/item/12-children-and-young-people-seeking-and-obtaining-treatment-for-gender-dysphoria-in-australia-trends-by-state-over-time-2014-2018.html>.

⁹ Michele Mandel, *Decision upheld against surgeon’s social media posts on transgender top surgery*, Toronto Sun, Nov. 11, 2011, <https://torontosun.com/news/local-news/mandel-decision-upheld-against-surgeons-social-media-posts-on-transgender-top-surgery>.

¹⁰ See *The Trans Train and Transgender Regret Documentaries*, Bayswater Support Group, <https://www.bayswatersupport.org.uk/the-trans-train-and-transgender-regret-documentaries/>.

Although D did nothing permanent to his body, he wears the scars of embarrassment because he had been taken in by the notion that his distress and loneliness would disappear if he transitioned into a female.

Ann is grateful that she trusted her maternal instincts and D's therapist, and that she had the courage to stand up to D's school. She is haunted by the thought that if she had not intervened, D might not have escaped his trans identity without bodily harm or worse. A friend of Anne's had a child going through the same transgender issues; that mother affirmed her child's gender identity, and the boy soon thereafter took his own life.

D. Beth Bourne, Mother Who Lost Physical Custody of Female Child

Beth Bourne is the mother of S, an 18-year-old female who began identifying as a transgender boy at age 13.

Beth has identified several factors that she believes has contributed to her daughter's decision to identify as transgender. First, Beth suspects that S believes that presenting as male will shield her from the type of sexual assault that S's best friend experienced in sixth grade. Second, S is gifted in STEM subjects, which S sees as a stereotypically male interest. Third, S has long-standing comorbid mental health issues that professionals have ignored in favor of a gender dysphoria diagnosis.

Finally, Beth believes S’s school has been a major factor in her identifying as transgender. S attends Davis Joint Unified High School, where one in 25 students identify as transgender, 2.8 times the national average.¹¹ Additionally, counseling services at S’s school are provided through CommuniCare, a provider that focuses on providing “affirming services for Yolo County’s LGBTQ+ Community.”¹²

Kenna Cook, the CommuniCare project coordinator for S’s school, wants CommuniCare to serve as a “*chosen family*,” where transgender “7th through 12th graders” can find a “safe space to ‘be themselves’ and talk to *trusted adults*.”¹³ Before Ms. Cook was hired to work with minor children, she had a “sex-positive” blog where she wrote articles such as “It’s Not Weird to F***

¹¹ Colin Wright, *BREAKING: New Documents Reveal Shocking Surge in Trans-Identified Students in Davis, CA Schools*, Reality’s Last Stand, (Jan. 17, 2023), <https://www.realityslaststand.com/p/breaking-new-documents-reveal-shocking>.

¹² CommuniCare, LGBTQ+ Care, <https://communicarehc.org/lgbtq-care/>.

¹³ Jordan Silva-Benham, *CommuniCare expands services for LGBTQ+ youth in Yolo County: Elevate Youth works with residents aged 12 to 36*, Daily Democrat (March 26, 2021) (emphasis added), <https://www.dailydemocrat.com/2021/03/25/communicare-expands-services-for-lgbtq-youth-in-yolo-county/>.

Your Friends”¹⁴ and “Be a Better Butt Slut.”¹⁵ Ms. Cook also organized events like “Spanksgiving,”¹⁶ where people were invited to “learn about spanks before you give thanks.”¹⁷

Beth raised concerns about whether CommuniCare and Ms. Cook should be providing confidential counseling to minors. But Beth’s efforts succeeded only in being labeled by the district as a parent who did not have her daughter’s best interests in mind.

S is now showing signs of desistance—moving from identifying as a transgender male to being non-binary; wearing makeup and dresses and no longer wearing a chest binder. However, Beth believes that S will not be safe as long as

¹⁴ Kenna Cook, *It’s Not Weird to F*** Your Friends*, Medium.com (Sept. 13, 2017) (“There is a grave misconception that sex is restricted only to couples in love and meaningless hookups found on Tinder,” <https://web.archive.org/web/20191219021805/https://medium.com/@macookling/its-not-weird-to-fuck-your-friends-8f3c141c3bc0>).

¹⁵ Kenna Cook, *Be a Better Butt Slut*, Medium.com (Sept. 20, 2017) (“Let’s talk about the final frontier of penetrative sex. The boss level. The position of the professionals.” <https://web.archive.org/web/20191123092157/https://medium.com/@macookling/be-a-better-butt-slut-c8c123512bbc>).

¹⁶ Kenna Cook, *Spanksgiving: Impact Play 101*, Eventbrite.com (Nov. 22, 2017) (“Ever been interested in learning how to find the pleasure in a good spanking or want to know how to handle a paddle like a pro?” <https://www.eventbrite.com/e/spanksgiving-impact-play-101-tickets-39629296292>).

¹⁷ Kenna Cook, Facebook (Nov. 22, 2017), <https://www.facebook.com/photo.php?fbid=10159613335705483&set=pb.562380482.-2207520000.&type=3>.

school districts are allowed unfettered access to minor children by groups and individuals like CommuniCare and Ms. Cook.

E. Wendell Perez, Father of Desisted Female

Wendell Perez is the father of AP, a junior high school female at a Florida public school. When AP was 12 years old, Wendell and his wife were summoned to a meeting at AP's school.

There, they learned their daughter had attempted suicide for the *second time* that school year. *The school had not told the Perezes about AP's first attempt.*

But that was not the only thing AP's school was hiding. At the same meeting, the Perezes learned that a school counselor had been meeting with AP weekly for months. The counselor believed that AP's struggles stemmed from her issues with her gender identity— another thing the Perezes knew nothing about. The school also said that the counselor had told the administration and AP's teachers to use her "chosen" male name in class. This led to AP being bullied at school, and the embarrassment and stress culminated in AP's suicide attempts.

A school employee had told everyone in AP's world about her gender distress, except for the two most crucial people in her life and the only two with a constitutionally protected interest in caring for her well-being: AP's parents.

AP's parents removed her from school and placed her in a mental health facility. Her inpatient treatment gave AP a clearer understanding of her troubles,

which convinced her to drop her transgender identity. AP told her parents that she had wanted to flee girlhood because she felt weak and thought that male hormones would help her shield herself from male taunts. The “cool” LGBTQ posters and materials in the school counselor’s office had also convinced her that her interest in sports and video games meant that she was a boy trapped in a girl’s body.

AP was just another adolescent, struggling to fit in and wanting to be “special.” The school counselor’s attention, prodding, and selective praise made AP want to be a special “transboy” instead of an ordinary girl. Though AP already had loving parents, the school counselor presented herself as a caring pseudo-parent. AP’s actual parents are now left to repair the damage school counselors did to their child.

F. J, Mother of Desisting Female, M

J is the mother of M, a 15-year-old female. When M was 13 and in eighth grade, she was subjected to California’s mandated sex-education curriculum, which exposes children to a wide range of sexual and gender identities. After the sex-ed class, M and her friends each selected sexual and gender identities; M came out to her parents as bisexual. Thereafter, M started cutting herself. J immediately sought out a mental health therapist for M.

During ninth grade, a school counselor observed that M was dressed in clothes associated with Japanese anime: short skirts, knee-high socks, choker necklaces and cat-ear headbands. The counselor directed her to a group of older students who were trans-identifying. The counselor frequently held lunch “meetups” for the trans-identified females and even pulled them out of class for counselor-initiated meetings. M’s mental health reached its nadir, and she announced that she was transgender.

J naively thought M would receive support from the school counselor, but quickly learned that this person was the instigator, covering for the older students who supplied her daughter with drugs and a replacement phone after J took M’s away. Given that gender ideology had so thoroughly saturated California schools, J decided to disenroll M and homeschool her.

Since leaving school, M’s mental health has steadily improved. She has started smiling again, no longer self-harms, and is showing signs of desistance from her trans identity. J is making plans to move her family away from California to further protect her daughter from pressure to identify as transgender.

G. Brette Smith, Mother of Desisted Female

Brette Smith’s 16-year-old daughter Anna had a tough time during the COVID pandemic. To escape the loneliness of lockdowns, she found community

in online chat groups and social media, where she quickly discovered transgender identities.

In June 2021, before Anna's freshman year of high school, Brette discovered that Anna was identifying as a transgender boy: her peers and a handful of "trusted" teachers had been socially affirming Anna behind her mother's back.

Brette sprang into action, removing Anna's access to social media and separating her from the peers that had been pushing towards this new male identity. Anna was furious. Based on what she had been fed by at school, she thought her mom was a transphobe. Teachers at school had also drilled into her that teens whose parents will not affirm them being their "authentic" trans self often commit suicide.¹⁸ Anna decided that that was the best way out for her, too: she attempted suicide by swallowing a handful of Xanax pills. Mercifully, Anna survived.

Brette stood by Anna's side as she recovered and arranged for her to stay at an inpatient mental health facility. There, Anna's care team determined she had major depressive disorder and was likely on the autism spectrum. *Gender dysphoria was never diagnosed or suggested at all.* Anna had tried to kill herself

¹⁸ Anna's teachers participated in The Trevor Project, a pro-trans that seeks to "end[] LGBTQ youth suicide." The Trevor Project: About Us, <https://www.thetrevorproject.org/strategic-plan/>.

because teachers at her school had coached her into believing that she was transgender and that a parent who disagreed was a hateful parent. To the contrary, Brette saw her little girl as perfect, with no need of “fixing.” Fortunately, Anna’s care team agreed.

Brette was one of the rare parents who found mental health providers willing to explore the root causes behind Anna’s sudden trans pronouncement. Anna was diagnosed with autism—a predominant factor in adolescents who announce a transgender identity.¹⁹ Anna’s care team determined that her trans identity was a maladaptive response to feeling different from the way she perceived other girls to be.

Today, Anna is once again comfortable in her female body. She is courageously speaking out publicly, but her honesty about her experience now puts her on the receiving end of bullying and threats by trans-identified classmates. Anna believes it is important to inform others of how she was captivated by what she calls the “trans cult,” and how it is wrong and dangerous to keep secrets from parents.

H. Gaby Clark, Mother of Desisted Female

¹⁹ See, e.g., Jennifer Murray, et al., *Autism and transgender identity: Implications for depression and anxiety*, 69 *Rsch. in Autism Spectrum Disorders* 101466 (Jan. 2020), <https://doi.org/10.1016/j.rasd.2019.101466>. (“An online study of 727 individuals revealed a substantial overlap between transgender identity and autism”).

In 2021, Gabrielle Clark noticed that her 12-year-old daughter J and her friends were acting strangely. J had been a cheerful girl and an extrovert, but during the COVID lockdowns, J became withdrawn and obsessed with TikTok and her appearance.

Gabrielle learned that J's public school had, without her consent or knowledge, been calling J a male name and using male pronouns.

Gabrielle believes, but the school has refused to confirm or deny, that school staff was meeting with J to discuss transgenderism and identity, and that this counseling pushed her daughter towards hereighth-grade announcement that she was transgender.²⁰

When J told her mother she intended to undergo a radical double mastectomy in the future, Gabrielle objected vociferously. This made J irate, and even more rebellious. J began to self-harm by scratching, cutting, and biting herself.

Gabrielle knew that the school was undermining her parental rights and that she needed to take bold action to save her daughter. She decided to give up

²⁰ Like Appellee School District, J's school has a policy that promotes social gender transition plans without parental knowledge. Because of the school's intransigence, Gabrielle was forced to hire an attorney to help uncover the extent to which her public school was undermining her parental authority and advocating that J adopt a transgender identity.

her life in Las Vegas and move the family to Texas. Gabrielle made sure that J's new school would not circumvent her rights as J's mom.

Gabrielle did a great deal of research to understand J's troubles, and developed a plan on how to bring her daughter back from what she and others call "the transgender cult." After six months away from her old school and off the internet, and with a great deal of parental love and compassion, J has slowly returned to being comfortable in her female body.

I. January Littlejohn, Mother of a Desisted Female

January Littlejohn lives with her 16-year-old daughter, A.G. in Florida. A.G. attended a public middle school. January was well known as a tireless volunteer at A.G.'s school. January is also licensed mental health provider.

The school knew that A.G. suffered from ADHD and had a 504 Accommodation Plan in place pursuant to the Rehabilitation Act 1973, 29 U.S. section 701 et seq.

At age 13 - the height of puberty - A.G., like many schoolchildren, sank into depression during the Covid-19 lockdowns, due to isolation. A.G.'s ADHD made online instruction arduous and distressing. In the spring of 2020, a few of A.G.'s close friends announced that they were no longer female, but non-binary—neither female nor male—a medical fiction. A.G. had no past gender discordance issues,

but the peer influence convinced her that her distress was because she “born in the wrong body.”

A.G. asked to be called J and addressed with “they/them” pronouns. January declined to do this herself, but allowed A.G. to use the name J at school when receiving counseling. January naively thought that the school would treat “J” as just a nickname. Unbeknownst to January, the school counselor and administrators scheduled a meeting with A.G. and allowed the depressed and anxious 13-year-old child to dictate her treatment at school. January later learned that the school had a created secret social transition plan for A.G.

The Plan set forth the name and pronouns to be used for A.G., and which bathroom and overnight sleeping accommodations A.G. would use for any field trips. Despite January’s notification to the school that she had retained an outside mental-health counselor for A.G., the school secretly intervened by socially transitioning A.G. under the Plan created. The school refused to provide January with any information about the meetings or Plan created.

The school created a chasm between A.G. and her parents, injuring their previous close relationship. The school caused A.G. to distrust her own parents. Knowing that the school was ignoring her rights, January unenrolled her daughter from the public school. January’s removal of A.G. from the indoctrinating school, and providing her with appropriate mental health treatment for the underlying

issues that led to A.G.'s maladaptive coping mechanism of trying to escape her biology, resulted in the resolution of A.G.'s gender dysphoria. Today, A.G. is a confident female with no identity issues. The wounds created by the school's wedge between the sacred bond between child and parents still exist and have not fully healed. January and her husband's lawsuit is pending in the 11th Circuit Court of Appeals.

CONCLUSION

For all the foregoing reasons, and those stated by Plaintiff-Appellant, the judgment below should be reversed.

Respectfully submitted,

s/ Jennifer W. Kennedy

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November 6, 2023

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I hereby certify that on November 6, 2023, I electronically filed the foregoing brief with the Clerk of the Court for the U.S. Court of Appeals for the Ninth Circuit for filing and transmittal of a Notice of Electronic Filing to the participants in this appeal who are registered CM/ECF users.

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s/ Jennifer Kennedy

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