by Antony Barone Kolenc

Homeschooling and the Perils of Shared Parental Responsibility

Each year, increasing numbers of Floridians choose home education, with more than 75,000 students in the state currently taught at home. They follow in the steps of the nation's founders and such great figures as Abraham Lincoln, Thomas Edison, and Andrew Carnegie, to name just a few. Nationwide, Florida has garnered a reputation as one of the friendliest states for homeschoolers. Families can choose from several statutorily recognized options,[1] placing them on the same legal footing as those who send their children to public or private brick-and-mortar schools. This decision to homeschool goes far beyond pedagogy, triggering major lifestyle changes for parents and children alike. Not only do they spend vast amounts of time together seven days a week, but they enter a distinctive subculture with specialized support groups, athletic leagues, social events, and political action networks. Precisely due to the pervasive nature of this way of life, when parents in these families separate, Florida's ideal of "shared parental responsibility" poses a particular danger to continued home education. Practitioners who counsel clients in these cases should familiarize themselves with the recurring issues and the systemic realities that can have a significant impact on the outcome of child custody litigation.

The "Problem" of Shared Parental Responsibility

The legal framework for shared parental responsibility grew from its roots in the natural law and the inherent order in creation that endows parents with a joint right to make critical choices about how their children will be raised.[2] Florida law reflects this ideal in its presumption in F.S. §744.301(1) that "parents jointly are the natural guardians of their own children and of their adopted children, during minority." This continues even after the parents' partnership dissolves, as noted in F.S. §61.13, "the public policy of this state [is] to assure each minor child frequent and continuing contact with both parents after the parents have separated or dissolved their marriage and to encourage parents to share the rights and responsibilities of childrearing." In accord with this policy, F.S. §61.046(17) defines shared parental responsibility as a "court-ordered relationship in which both parents retain full parental rights and responsibilities with respect to their child and in which both parents confer with each other so that major decisions affecting the welfare of the child will be determined jointly." In those states that still use the terminology of "custody" (*e.g.*, "sole custody"), this is most similar to the notion of "joint custody."[3]

In the modern world of no-fault divorce and transient partnerships, the shared parenting ideal places homeschooling peculiarly in jeopardy when parents separate. The parents have likely disagreed about a great many things to bring them to the painful choice to end their relationship. Often these differences are prominent regarding child-rearing and fundamental values. Simple parenting decisions become complex in these failed romantic relationships, especially when the realities of homeschooling are added to the mix. Florida courts take shared responsibility seriously, insisting that parents not only confer on important matters relating to their children but also that they reach consensus when at all possible.[4] Still, it is not uncommon under these circumstances for decision-making deadlock to occur.

Consider the classic home education scenario, where children remain at home and one parent takes on the chief schooling duties. The parent who takes on the primary role will likely teach from textbooks and workbooks like any educator. Moreover, he or she will operate as the grader, disciplinary dean, and school principal. Even in today's computer-heavy climate, where much learning takes place online, that parent will explain or clarify the material and generally supervise the homeschool. That same parent may also engage with the children in many of their homeschool-specific activities, such as support groups, play dates at the park, cooperative teaching, enrichment classes, field trips, and religion-related events. In addition, that same parent may retain some or all of the traditional parenting roles — those that non-homeschooling parents typically perform outside of school, such as ensuring household chores are completed, coaching sports teams, and transporting children to extracurricular activities like Boy Scouts or ballet. The level of contact with the children, especially for the primary educator, is extensive.

Now imagine that same life after the parents have dissolved their relationship. If home education continues, it

would make the most sense for the children to reside a majority of the time with their primary teacher. But in this arrangement, the other parent may feel like an outsider as the children spend most days and nights away. All aspects of the kids' lives would seem to revolve around their chief educator. One can understand how the other parent, no matter how self-secure, could lament this situation, pondering whether the homeschooling parent is gaining an unfair emotional advantage, bonding with the children, and disproportionately influencing their lives and values. The other parent suddenly wants out of this educational model; deadlock results.

Divided parents notoriously have difficulty with the ideal of shared decisionmaking due to the animosity, poor communication, and spitefulness that often accompanies the breakdown of relationships. Emotions run high and positions harden. Unfortunately for the homeschooling parent, when discontent leads to deadlock, home education is often the casualty. *Hancock v. Hancock*, 915 So. 2d 1277 (Fla. 4th DCA 2005), presents the typical fact pattern. In that case, the parents "had mutually agreed the former wife would" homeschool the child during his "early education."[5] The divorcing father (an attorney) soon regretted that preordained arrangement and sought a neutral teacher other than his estranged spouse. During dissolution he "requested the court 'to require the [w]ife to enroll the minor child in a private [or] public school,'" and the court remanded the case to consider the issue.[6] One cannot complain when, as here, a court must intervene to decide fundamental matters: Because these cases involve "competing rights of parents to their child in a divorce situation," such a complaint would be deemed "frivolous."[7]

Fighting for Sole Parental Responsibility?

When divided parents share decisionmaking, deadlock over homeschooling can occur all too easily. In light of that risk, an attorney advising a parent seeking home education will quickly realize the securest arrangement for the client will be to gain "sole parental responsibility" over the children, defined by F.S. §61.046(18) to mean "a court-ordered relationship in which one parent makes decisions regarding the minor child." A parent with sole parental responsibility will have nearly carte blanche authority over the decision to homeschool, along with all other aspects of child-rearing. If the other parent wants a say in the education decision later, courts will be reluctant to change the status quo. For example, in *Rust v. Rust*, 864 S.W.2d 52 (Tenn. Ct. App. 1993), the Tennessee court refused to force a mother with sole custody to send her child to public school despite her ex-husband's objection to home education.[8] The court would "not second-guess" the mother's homeschooling decision because the decree of sole custody gave her complete parental power on matters of education.[9]

The problem with seeking sole parental responsibility, of course, is that it is likely unattainable. That decision will depend upon a family law court empowered to artificially divide the shared "bundle of rights" that parents naturally exercise over their children, based on the "best interests of the child."[10] Florida is not agnostic on its preference for what is "best" for children on this critical question. In a major 1982 revision of Florida's family law code, the legislature advised judges to prefer shared responsibility, stating in F.S. §61.13, "The court shall order that the parental responsibility for a minor child be shared by both parents unless it finds that shared parental responsibility would be detrimental to the child." This statutory mandate continues today using nearly identical language. Nor is this decision legally weighted in the mother's favor,[11] despite the fact today that women are still the primary teachers in most homeschooling families. In reality, the most likely way to secure sole parental responsibility for the client will be through mediation; however, many parents will not agree to give up rights over their children, even if under the current statutory scheme, parental rights are defined less by nomenclature and more by how the parenting plan and timesharing arrangements are fashioned.

Outside of a negotiated agreement that a court will accept, a homeschooling parent will find it impracticable, except in extreme cases, to obtain sole parental responsibility. Ultimately, Florida's public policy preferring shared parental responsibility benefits society. Although sole parental responsibility might make the homeschool decision easier, there are good reasons why states have trended away from it: respect for the dignity of both parents and the encouragement of engaged co-parenting by mothers and fathers. Moreover, shared parental responsibility is based on the natural and proven belief that children benefit from the active involvement of both parents in their lives, even after a dissolution or separation. Thus, attorneys ordinarily should seek other options for the client. Indeed, attorneys, the courts, and court-appointed experts charged with creating parenting plans now have tools to assist families in finding solutions tailored to each family's individual needs, regardless of sole versus shared parental responsibility.

Other Options to Protect Homeschooling

For the lawyer advising a client interested in home education, perhaps the best option is to negotiate a parenting plan that expressly gives the homeschooling parent ultimate decision-making authority regarding education. This middle ground preserves most of the shared parental responsibility while fully protecting the decision to educate at home. After the 2008 changes to Florida's family law statutes, this option is realistically attainable through a parenting plan that allocates the timesharing schedule to allow for homeschooling while maximizing the other parent's time with the children. A court that accepts this arrangement will later be reluctant to change the status quo because the non-homeschooling parent has voluntarily yielded this authority. The parenting plan will be even stronger if it expressly mentions home education as an option for the minor children. Of course, the client may need to compromise on other issues to secure this type of

favorable result.

Even if mediation fails, the homeschooling parent can ask the trial court to order such an arrangement, which is within the court's power when shared parental responsibility is unworkable on a particular issue.[12] Indeed, in cases of parental deadlock, the court may have no choice but to give sole decision-making authority regarding education to one parent, either temporarily or permanently. Returning to *Hancock*, when the father objected to homeschooling, the mother petitioned the court to find it "in the best interests of the child that the [w]ife be given sole responsibility regarding the child's educational needs."[13] When the trial court essentially ignored the issue and awarded shared parental responsibility anyway, the appellate court — noting that "[o]ne thing is clear, the parties do not agree regarding the child's education" — remanded the case with instructions to designate one parent to make decisions regarding education.[14]

Of course, there are risks to raising this issue in litigation. The strategy could backfire and the court could place all educational control in the hands of the non-homeschooling parent. Thus, a less risky and more palatable goal — especially when the family has been homeschooling prior to dissolution — could be to agree to shared parental responsibility but to insert an explicit reference about home education in the parenting plan. The plan might simply acknowledge that "the parents have agreed to homeschool the children," or that the client "will continue to homeschool the children." These references at the time of dissolution will help prevent the other parent from later claiming substantial changed circumstances based on the home education.

If nothing else, the attorney for a homeschooling parent must be sure the parenting plan does no harm to the client's future chances of homeschooling. No plan should imply an acquiescence or understanding between the parents that the children will attend a public or private brick-and-mortar school. Should the decree leave that impression, it will be difficult later to overcome the perception that the parents agreed *not* to homeschool. Once again, a future court will be hesitant to change the status quo without a substantial change in circumstances.

A Matter of Timing

Life is often about timing. That concept fully applies to home education, especially in relation to the dissolution of a parental relationship. When it comes to the matter of a court assigning parental responsibility for education, the best-case scenario for the homeschooling client will be for the family to have an ongoing practice of home education prior to dissolution — the longer the practice, the better. Indeed, some courts accord significant weight when one parent has stayed home to raise children during the relationship.[15] If the parents homeschooled the children successfully for years, a court is more willing to find continued homeschooling in the children's best interest. This fact can impact not only shared parental responsibility, but also issues such as imputed income[16] and the level of alimony to award a homeschooling parent who sacrificed to educate the children during the relationship.[17]

Yet not every court will find this past practice determinative. In *Welch v. Welch*, 951 So. 2d 1017 (Fla. 5th DCA 2007), the parents had "mutually agreed" during the marriage that the mother should not work but should homeschool.[18] In reversing an award of alimony, the court found that the trial court had erred in exclusively taking into account the "reluctant" agreement by the father regarding homeschooling.[19] The court noted, "[T]here was no such agreement after the parties separated. Although the former wife's goal of home schooling her children is laudable, many things change as a result of a marriage ending, and this may be one of them."[20]

Compare that to the worst-case scenario in which the client decides to homeschool only after the relationship has dissolved and without any history of agreement between the parents, triggering a petition from the other parent claiming a substantial change in circumstances from the parenting plan. In *Wade v. Hirschman*, 903 So. 2d 928 (Fla. 2005), the Florida Supreme Court clarified that a "substantial change" required to modify a custody order must not only be in the best interests of the child but also "must be one that was not reasonably contemplated at the time of the original judgment."[21] A change in education to a homeschooling model — unless somehow anticipated by language in the plan — could cause a court to revisit the status quo.

For instance, in *Smith v. Smith*, 927 So. 2d 118 (Fla. 2d DCA 2006), a mother who wished to relocate to another county in Florida defeated a modification petition by the father.[22] When remanding the case due to changed circumstances in light of *Wade*, the court found it relevant that "the [f]ormer [w]ife took the child out of school and home-schooled her for a period of time without consulting the [f]ormer [h]usband…."[23] In a relevant non-homeschooling case, *Wyatt v. Wyatt*, 966 So. 2d 455 (Fla. 4th DCA 2007), a divorced mother and father with shared parental responsibility could not agree on where to educate their child despite a parenting plan that anticipated schooling at a "mutually agreeable private school."[24] The court found that this "impasse constitutes a substantial change in circumstance, requiring modification of the final judgment in the best interest of the children."[25] A similar result is likely if, after dissolution, a non-homeschooling situation suddenly becomes a homeschooling situation. Thus, clients interested in teaching at home would be well advised to start that mode of education as early as possible prior to dissolution of the parents' relationship, and preferably with the full concurrence of the other parent.

The reality is that Florida's preference for shared parental responsibility means that, at least as an initial matter, most separating parents will have equal authority over education decisions. They will need to confer with each other and find compromise when possible. In the matter of home education, this is often easier said than done. Thus, in preparing for potential deadlock later, the homeschooling parent should be advised to take

precautions now. In particular, the client should pay attention to three areas that can help maximize the chances of continuing home education: providing a quality education, encouraging socialization, and avoiding parental strife.

Maximizing Chances: Quality of Education

If a court must resolve a shared parenting impasse over the mode of the children's education, one large factor when weighing the "best interest of the child" will be the quality of home education. This is similar to the situation in which a court allocates medical decisionmaking to the parent who makes effective treatment choices for their sick child. With education, a judge is less likely to give a parent permission to homeschool if the program is pedagogically weak.

There is always danger when a court examines the effectiveness of a homeschooling program. It should go without saying that the homeschooling parent must maintain impeccable records and comply with all aspects of the state's home education laws. To neglect this area is surely the kiss of death to any chance of continued homeschooling. For instance, in *Wigley v. Hares*, 82 So. 3d 932 (Fla. 4th DCA 2011), the court found error with a trial court's conclusion that a child had been "properly" homeschooled when the undocumented migrant mother was educating at home to keep her son hidden from an abusive father, and, thus, had failed to follow any of Florida's requirements under the homeschooling laws.[26]

But following the rules is not enough. The client interested in continued homeschooling must also ensure that the children are getting a top-notch education at home. This is an area that the judge may need expert evidence to demonstrate the benefits of home education over traditional brick-and-mortar schools and proof the children are thriving in the homeschooling environment. Organizations such as the Homeschool Legal Defense Association (HSLDA) specialize in such testimony.[27] And there is plenty of data to support the proposition that homeschooling is educationally advantageous.[28] Studies consistently show homeschoolers perform as well as, if not better than, their traditional counterparts on standardized tests and in college. Moreover, the success of homeschooling is not dependent on whether the parents have college degrees. It is the hands-on, individualized attention of homeschooling that brings success; the level of parental education does not significantly increase the results.[29]

An expert witness testifying in support of home education should make the judge aware of all the data in case the judge is naturally inclined to the traditional educational model. Returning to *Hancock*, despite the parents' agreement for the child to be homeschooled, the father brought on an expert witness during dissolution to opine that although the mother taught the child at home through the eighth grade, their "son had not completed the eighth grade and that he would benefit from a more traditional school environment."[30] There is no indication that the mother attempted to fight this evidence through her own evaluations and experts, although she would have the chance on remand. Consider the potential impact of such expert evidence in the Connecticut case of *Carrano v. Dennison*, 30 Conn. L. Rptr. 479 (Conn. Sup. Ct. 2001), a joint-custody case involving parents who had never been married, and the father objected to homeschooling.[31] There, the Connecticut court heard extensive expert testimony, concluded that home education "can be a rich and diversified experience, and one that is uniquely tailor-made for the child," and allowed it as long as there was annual testing.[32]

In sum, the best defense for a client who desires to continue homeschooling is solid evidence that the program is both legal and effective in preparing the children for the future.

Addressing Socialization Concerns

Perhaps the most misunderstood societal belief about homeschooling is that children at home cannot be properly socialized. In *Cano v Cano*, 140 So. 3d 651 (Fla. 3d DCA 2014), after a family court initially allowed homeschooling by the mother, during a supplemental hearing a guardian ad litem testified that she had a "gut reaction" that "you know what, maybe the kids should have socialization with other kids" by going to a brick-and-mortar school.[33] Based in part on this testimony and on the judge's own notions about socialization, the court ordered the children to be placed in public school, despite the testimony of a court-appointed psychologist that the children were doing well academically in their homeschool studies.[34] On appeal, the court reversed because the judge had failed to provide basic due process: The father's petition had not mentioned the possibility of sending the children to public school and the mother never had a chance to put on expert evidence for the judge.[35]

This notion that — as one New Hampshire family law judge put it — "[e]nrollment in public school will provide [the child] with an increased opportunity for group learning, group interaction, social problem solving, and exposure to a variety of points of view"[36] misses the mark. Homeschooling experts point out that many empirical studies demonstrate that, by and large, children educated at home are often better socialized than their brick-and-mortar peers, and that they adapt well to society, both in their adolescent years and as adults.[37] Although a few extreme cases tend to perpetuate general skepticism about socialization,[38] courts need to hear from experts that those cases are not representative of homeschooling or the case at hand.

Homeschoolers who give their children a healthy amount of social contact will be better positioned to win their cases in family court. For example, one Virginia court allowed a father to homeschool over the objection of his ex-wife, but only after he presented credible expert testimony that his children "engaged in sufficient activities outside the home classroom to develop necessary social skills."[39] Such proactive measures can avoid the situation in *Eisele v. Eisele*, 91 So. 3d 873 (Fla. 2d DCA 2012), in which the trial judge erred by sua sponte refusing to allow either par-

ent to homeschool their child who was only four years old.[40] Neither parent had sought homeschooling during the dissolution proceedings. Indeed, the father had urged the court "to not address public vs. private vs. homeschooling for the child"; however, the parenting coordinator's conclusion about "the child's lack of socialization" convinced the court to address the issue.[41] Reversing this prospective ruling, the Second District Court of Appeal noted that "the child would not reach kindergarten age until approximately [20] months after the date of final judgment," and that the trial court "must hold a hearing to determine whether it is currently in the best interest of the child — who is now almost six years old — to not be home schooled by either of her parents."[42]

Unfortunately, the bias about socialization becomes even more pronounced when dealing with religious homeschoolers, of which there are many in Florida. In one joint custody case from New Hampshire, a Christian mother butted heads over homeschooling with her less-religious ex-husband.[43] The judge voiced concern about the child's "vigorous defense" of her Christian faith to a court-appointed counselor, and she wrote that the 10-year-old had "not had the opportunity to seriously consider any other point of view."[44] Ultimately, the judge decided to send the girl back to public school where she would have exposure to other views.[45]

Parents who wish to continue homeschooling after separation must take potential bias about socialization into account when making their education plans. They will need to get their children involved in extracurricular activities, such as sports, music, and youth groups, where they will have peer contact. If religion becomes an issue in the case, they must vigorously defend their rights under the First Amendment to demonstrate that religion is not harmful in their specific case. Expert testimony will be essential.

Avoiding Parental Strife

As a final thought, parents who wish to continue home education after separation must endeavor to minimize any strife related to that schooling. Judges rightly worry about the impact of parental conflict on children, and a court might forbid homeschooling if it believes this will harm the other parent's rights. The 2008 changes to Florida's family law statutes, with their emphasis on parenting plans and timesharing, provide a great opportunity to build a healthy flexibility into the post-separation relationship, even in homeschooling situations.

The decision to educate children at home should never become a weapon against the other parent. In one Michigan joint custody case, the trial court refused to let a mother homeschool because the communication between the ex-spouses had become so bad that it would "excise" the father from his daughter's education if she were educated at home.[46] The trial judge accepted the argument that public school "was well equipped to educate a child of divorced parents and was accustomed to making certain accommodations so that each parent was informed about their child's progress and development."[47] Similarly, an Arkansas family court prevented a divorced mother from homeschooling because it would have required a modification to the father's visitation schedule.[48] Attorneys representing such clients must dispel any perception that homeschooling would interfere with the other parent's ability to have a full relationship with their child, and should follow the example of one homeschooling father who was praised by a Virginia court for his efforts to keep his ex-wife informed of her child's educational progress and for agreeing that she could come to homeschooling classes on occasion.[49]

Conclusion

In an age when shared parental responsibility has become not only the norm, but also Florida's highest hope and expectation, homeschooling families are an endangered species when parents dissolve their relationships. For that reason, clients interested in teaching the children at home after dissolution must either gain adequate parental authority to educate in peace, or else set up their program so that a court will conclude that homeschooling is in the best interests of the children and harmless to the rights of the other parent.❑

[1] Florida has three options. First, Florida provides a traditional home education model. *See* Fla. Stat. §§1000.21(5), 1002.01(1), and 1002.41. Second, groups of homeschooling parents may join together and operate as a private school. *See* Fla. Stat. §1002.01(2). Finally, parents may use Florida's private tutor law, assuming they hold a valid Florida teaching certificate in the relevant subjects and grades. *See* Fla. Stat. §1002.43.

[2] In nearly every culture, the legal right of parents went unchallenged for millennia, including in Britain, from which U.S. law originated. Sir William Blackstone, the authoritative 18th century English jurist, described the parental right as "universal," and British common law saw it as a "sacred right with which courts would not interfere." Daniel E. Witte, *People v. Bennett: Analytic Approaches to Recognizing a Fundamental Parental Right Under the Ninth Amendment*, 1996 B.Y.U. L. Rev. 183, 218 (1996).

[3] This article sometimes references "sole custody" or "joint custody" under other state statutes. These terms, now obsolete in Florida parlance, refer to "sole parental responsibility" and "shared parental responsibility," as a general matter. Changes to Fla. Stat. §61.13 in 2008 abolished the language of "custody" and replaced it with the concept of "timesharing" to be allocated in a parenting plan.

[4] *See Smith v. Smith*, 971 So. 2d 191 (Fla. 1st DCA 2007).

[5] *Hancock*, 915 So. 2d at 1278.

[6] *Id.* at 1277-78.

[7] *Wyatt v. Wyatt*, 966 So. 2d 455, 456 (Fla. 4th DCA 2007).

[8] *Rust*, 864 S.W.2d at 54-56.

[9] *Id.* Not every court will be as deferential to the decision to homeschool. *See Clark v. Reiss*, 831 S.W.2d 622 (Ark. Ct. App. 1992) (trumping the decision of a sole custodian because it was not in the best interests of the child).

[10] The "best interests of the child" standard has emerged as a universal measuring rod across the nation. It has been adopted in Florida for "all matters relating to parenting and time-sharing of each minor child of the parties." Fla. Stat. §61.13(2)(c).

[11] The stereotypical bygone era of custody preferences for mothers was swept away by a national trend beginning in the 1970s. In Florida, a 1971 version of Fla. Stat. §61.13(2) theoretically abolished the "tender years doctrine" by decreeing that "the father of the child shall be given the same consideration as the mother in determining custody." In 1997, the Florida Legislature did attempt to continue the old preference for mothers in the context of out-of-wedlock births, amending the law to weight decisions in favor of unwed mothers: "The mother of a child born out of wedlock is the natural guardian of the child and is entitled to primary residential care and custody of the child unless the court enters an order stating otherwise." Fla. Stat. §744.301(1) (1997). Despite this statutory language, however, Florida courts have found that the family law's broader mandate for "shared parental responsibility" applies even outside the marriage bonds, essentially superseding the 1997 amendment by expressing this preference for shared responsibility even where the parents never get married. *See Stepp v. Stepp*, 520 So. 2d 314 (Fla. 2d DCA 1988).

[12] *See Gerencser v. Mills*, 4 So. 3d 22 (Fla. 5th DCA 2009).

[13] *Hancock*, 915 So. 2d at 1278.

[14] *Id.*

[15] *See Byers v. Byers*, 910 So. 2d 336 (Fla. 4th DCA 2005) (a nonhomeschooling case where the appellate court placed emphasis on that fact).

[16] Regarding imputed income, in *Heidisch v. Heidisch*, 992 So. 2d 835 (Fla. 4th DCA 2008), the court remanded where the trial court had imputed income to a homeschooling mother who was receiving rehabilitative alimony so that she could finish her college degree. *Id.* at 836. The trial court had not sufficiently taken into account the fact that the mother was going to need to attend college full time and that she was going to "be the caretaker of her two children [50] percent of the time." *Id.*

[17] Regarding alimony, in *Fortune v. Fortune*, 61 So. 3d 441 (Fla. 2d DCA 2011), the court found error when the trial court did not award permanent alimony to a homeschooling mother of five who had been married for 18 years. *Id*. at 444. The couple had married young, and the mother had never worked outside the home during the marriage, where she homeschooled the children. *Id*. at 446-47. The court viewed this as "a classic permanent alimony case," and it remanded for the trial court to award some permanent alimony to the wife. *Id.*

[18] *Welch*, 951 So. 2d at 1019.

[19] *Id*.

[20] *Id.*

[21] *Wade*, 903 So. 2d at 931, n. 2 (quoting *Cooper v. Gress*, 854 So. 2d 262, 265 (Fla. 1st DCA 2003)).

[22] *Smith*, 927 So. 2d at 121.

[23] *Id.*

[24] *Wyatt*, 966 So. 2d 456.

[25] *Id.* at 458.

[26] *Wigley,* 82 So. 3d at 939.

[27] For a representative example of the type of testimony available from such groups, *see* Home School Legal Defense Association (HSLDA), *Brief of Amicus Curiae In Support of Appellant, Cano v. Cano*, Case No. 3D13-1897 (Fla. 3d DCA 2013), *available at* http://www.hslda.org/hs/state/fl/Fla_3rd_appeals_brief_11-26-2013.pdf [hereinafter *Cano Amicus Brief*].

[28] *See* Antony Barone Kolenc, *When "I Do" Becomes "You Won't!": Preserving the Right to Homeschool After Divorce*, 9 Ave Maria L. Rev. 263, 286-88 (2011).

[29] *See Cano Amicus Brief* at 12-13.

[30] *Hancock*, 915 So. 2d at 1278.

[31] *Carrano*, 30 Conn. L. Rptr. at 479, 2001 WL 1267509.

[32] *Id.* at *4.

[33] *Cano*, 140 So. 3d at 651.

[34] *Id. See also Cano Amicus Brief* at 3.

[35] *Cano*, 140 So. 3d. at 652.

[36] *In the Matter of Martin Kurowski and Brenda (Kurowski) Voydatch* [hereinafter *Kurowski*], Case No. 2006-M-669 (N.H. Laconia Family Division, Belknap County 2009) (*Decree on Pending Motions*, Jul. 14, 2009 at 7).

[37] *See Cano Amicus Brief* at 3-9.

[38] Returning to the *Wigley* case, the mother in hiding purposely kept her son "out of all community activities, sports, and even church to avoid detection by the father. He is allowed to have friends only when his mother or her present husband are around. Even his contact with family is very limited." *Wigley*, 82 So. 3d at 942. Despite finding error, the appellate court did affirm the decision under the Hague Convention not to return the child to the custody of the father in St. Kitts because the child was in "grave risk of harm," as defined in the Convention, due to threats by the father. *Id*. at 946.

[39] *Brown v. Brown*, 686 N.E.2d 921 (Ind. Ct. App. 1997).

[40] *Eisele*, 91 So. 3d at 874.

[41] *Final Judgment of Dissolution of Marriage*, Case No. 07-1020-DR at 31-32 (Domestic Relations Division, 20th Judicial Circuit, Hendry County, Jan. 13, 2011).

[42] *Eisele*, 91 So. 3d at 875.

[43] *Kurowski*, Case No. 2006-M-669 at 7.

[44] *Id.* at 4, 6.

[45] *Id.*

[46] *Taylor v. Taylor*, 2008 WL 2917650 at *7 (Mich. Ct. App. 2008).

[47] *Id*. at *5.

[48] *Clark v. Reiss*, 831 S.W.2d 622 (Ark. Ct. App. 1992).

[49] *Brown v. Brown*, 518 S.E.2d 336 (Va. Ct. App. 1999).

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