Case No. B192878
(Los Angeles County Superior Court No. JD00773)

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT, DIVISION THREE

In re RACHEL L., *et al.*, Persons Coming Under the Juvenile Court Law.

JONATHAN L. and MARY GRACE L.,
***Petitioners*,**

vs.

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES,
***Respondent*;**

LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES.
Real Party in Interest.

Superior Court of California, County of Los Angeles, Juvenile Division,
The Honorable Stephen Marpet, Commissioner Presiding

APPLICATION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF AND *AMICUS CURIAE* BRIEF OF THE NATIONAL LEGAL FOUNDATION IN SUPPORT OF FATHER JONATHAN L.

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APPLICATION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF

TO THE HONORABLE PRESIDING JUSTICE AND HONORABLE ASSOCIATE JUSTICES:

Pursuant to the California Rules of Court, Rule 8.520(f), *Amicus Curiae,* The National Legal Foundation, respectfully requests permission to file the accompanying brief in support of Father in *In re Rachel L*, Case No. B192878.

The National Legal Foundation (NLF) is a 501(c)(3) public interest law firm based in Virginia Beach, Virginia. The NLF is dedicated to the defense of First Amendment liberties and to the restoration of the moral and religious foundation on which America was built.

Since its founding in 1985, the NLF has litigated important First Amendment cases in both the federal and state courts. The NLF has gained valuable expertise in the area of First Amendment law, which it believes will assist this Court in deciding this case. The NLF has an interest, on behalf of its constituents and supporters, including those in California, in arguing on behalf of people of faith. This brief should aid the Court in

reaching the conclusion that the Religion Clauses protect parents' right to home-school their children.

DATED: May 19, 2008

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SUMMARY OF THE ARGUMENT

This Brief makes two arguments not made by the party it supports. First, your *Amicus* argues that if this Court were to grant the writ requested by the Petitioners it would violate the Free Exercise Clause, because such an order would be hostile towards religion. Second, your *Amicus* argues that *Wisconsin v. Yoder* is analogous to the instant case, because both the parents of the Amish children, and Rachel L.'s parents are fulfilling their religious duty to God in educating their children.

As to the first point, the Free Exercise Clause of the United States Constitution allows California to encourage religion. It also prohibits it from being hostile to religion. In this case, this Court is faced with a question in which it must chose whether to encourage or be neutral towards religion, instead to being hostile to it, by allowing home-schooling according to the dictates of the parents' religious beliefs.

If this Court grants the requested remedy, it would be forced to impose burdens upon religious home-schoolers that would violate the intent of the Framers of the Religion Clauses. Although more often associated with Establishment Clause jurisprudence, the Supreme Court of the United States has acknowledged that hostility towards religion also violates the Free Exercise Clause. By looking at the available data from the Drafters of the First Amendment, at the Virginia Statute of Religious Freedom, at James Madison's *Memorial and Remonstrance*, and at Justice Story's

Commentaries on the Constitution, one can discern the principles animating the Federal Free Exercise Clause. First, the Clause protects actions, not just beliefs. Second, the Clause was designed to prevent burdens from being imposed on the basis of religion. Third, religion should not be "leveled" with other aspects of our public life. These principles are closely related to the idea of encouraging religion.

As to the second point, *Yoder* leads to the resolution argued for by Father and your *Amicus*. While there are some differences between the parents here and the Amish, those few distinctions are not outcome determinative.

Both Father and the Amish are confronted with a compulsory education law that forces them to choose between educating their children according to the dictates for their religious beliefs and violating the state law. Additionally, while the Amish wanted to remove their children from all formal education past eighth grade, the parents in this case will continue their children's education through the twelfth grade. Furthermore, the Petitioners have argued that the state should rescue the minor children from their parents, and place them in a traditional school, however, the Supreme Court rejected just such a *parens partriae* argument in *Yoder*. Finally, just like the parents in *Yoder*, the parents in this case will be liable under the compulsory education law for failing to send their children to a traditional school. Therefore, *Yoder* is more similar than dissimilar to the instant case.

ARGUMENT

The California Legislature has the duty under Article IX, section 1 under the California Constitution to use "all suitable means" to promote education "which is essential to the preservation of the rights and liberties of the people." However, trampling a parent's Free Exercise Rights is not a suitable means. Thus to interpret the statute in such a way as to severely restrict Christian parents' rights to home-school their children violates the constitutional mandate.

I. THIS COURT SHOULD DENY THE WRIT PETITION, BECAUSE THE CONSTRUCTION OF THE STATUTE NECESSARY TO GRANT THE REQUESTED REMEDY WOULD RENDER IT VIOLATIVE OF THE FREE EXERCISE CLAUSE BY EXHIBITING HOSTILITY TO RELIGION.

This case is about whether religious parents have the right home-school their children without going through the arduous process of becoming certified teachers. While this case obviously involves one individual family, the reasoning of the panel's decision could be applied to every home-schooling family in the state. Should this Court choose to address this question,[1] it would implicate the Federal Free Exercise Clause because of Father's sincerely held religious belief. Thus, this case requires a deliberate choice between encouraging religion, being neutral to religion,

[1] As discussed in Father's Brief, this Court can, and should, decide this case without addressing the broader constitutional and statutory questions raised by the writ. (Father's Br. on Reh'g at 4-5.)

or being hostile to religion. When this Court evaluates the writ, it can choose to permit families to home-school through a simple process, or it can choose to prohibit all forms of home-schooling except for by certified tutors. Allowing an exception for home-schooling—and thereby permitting Christian parents to home-school their children according to the dictates of their conscience—could arguably be characterized as encouraging religion or as being neutral towards religion. While your *Amicus* believes that the better characterization is that permitting home-schooling would constitute neutrality, neither characterization is problematic since either would be permissible under the United States Supreme Court's Religion Clause jurisprudence.

First, it is a First Amendment commonplace that government should be neutral towards religion. *See, e.g., Good News Club v. Milford Cent. Sch*., 533 U.S. 98, 114 (2001); *Rosenberger v. Rector and Visitors of Univ. of Virginia*, 515 U.S. 819, 839 (1995); *Epperson v. Arkansas*, 393 U.S. 97 (1968); *School Dist. of Abington Township v. Schempp*, 374 U.S. 203, 215-18 (1963).

However, the Supreme Court of the United States has not construed the neutrality principle as antithetical to encouraging religion, at least in certain senses of that word. And this is not surprising, for as that Court stated in a much-cited passage from its opinion in *Zorach v. Clauson*, 343 U.S. 306, 313 (1952), "[w]e are a religious people whose institutions

presuppose a Supreme Being."

Specifically, the following words have appeared in no less than eleven Supreme Court opinions by the following justices: "When the state encourages religious instruction . . . it follows the best of our traditions." *Van Orden v. Perry*, 545 U.S. 677, 684 (2005) (Rehnquist, C.J., & Scalia, Kennedy, and Thomas, J.J., plurality); *Lamb's Chapel v. Center Moriches Union Free Sch. Dist.*, 508 U.S. 384, 400-01 (1993) (Scalia & Thomas, J.J., concurring); *Allegheny County v. ACLU*, 492 U.S. 573, 657 (1989) (Kennedy, White & Scalia, J.J., & Rehnquist, C.J., concurring in the judgment in part and dissenting in part); *Bender v. Williamsport Area Sch. Dist.*, 475 U.S. 534, 554 (1986) (Burger, C.J., & White & Rehnquist, J.J., dissenting); *Wallace v. Jaffree*, 472 U.S. 38, 74 (1985) (O'Connor, J., concurring); *Meek v. Pittenger*, 421 U.S. 349, 386 (1975) (Burger, C.J., concurring in the judgment in part and dissenting in part); *Meek*, 421 U.S. at 396 (Rehnquist & White, J.J., concurring in the judgment in part and dissenting in part); *Committee for Pub. Educ. & Religious Liberty v. Nyquist*, 413 U.S. 756, 813 (1973) (White, J., dissenting, joined in part by Burger, C.J., & Rehnquist, J.) (opinion applying also to two consolidated cases); *Lemon v. Kurtzman,* 403 U.S. 602, 665 (1971) (White, J., concurring in two consolidated cases and dissenting in two consolidated cases); *Walz v. Tax Com. of New York*, 397 U.S. 664, 671 (1970) (Burger, C.J., & Black, Stewart, White, & Marshall, J.J.); and *Zorach*, 343 U.S. at

313-14 (Vinson, C.J., & Reed, Douglas, Burton, Clark, & Minton, J.J.).[2]

Furthermore, this language has been quoted in two opinions from this Court. *Perumal v. Saddleback Valley Unified Sch. Dist.*, 198 Cal. App. 3d 64, 84 (Cal. App. 4th Dist. 1988) (Crosby, J., dissenting); *County of Los Angeles v. Hollinger*, 221 Cal. App. 2d 154, 164 (Cal. App. 2d Dist. 1963) (Ashburn, J., dissenting).

What the Supreme Court has ruled out is hostility towards religion. In each of the "neutrality" cases cited above, hostility is painted as the opposite of neutrality; and in each of the "encouragement" cases cited above, excepting only *Lemon*, hostility is also set in juxtaposition to encouragement. Furthermore, while the prohibition on hostility may be more familiar in an Establishment Clause context,[3] the Supreme Court has made it clear that the prohibition on hostility is also a stricture of the Free Exercise Clause. First, many cases cited above indicate that the prohibition on hostility arises from both of the Religion Clauses. *Lamb's Chapel*, 508 U.S. at 400-01; *Meek*, 421 U.S. at 386, 396; *Nyquist*, 413 U.S. at 814-15;

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[2] All but Justice O'Connor's are positive invocations of this proposition. Justice O'Connor noted that the proposition was inapposite as used by appellants.

[3] One *very* rough indicator of this fact can be demonstrated by searching the United States Supreme Court's opinions electronically. Searching for the words "hostile" and "hostility" in the same sentence with "Establishment Clause" produces three times as many results as when searching for those words in the same sentence with "Free Exercise Clause." Furthermore, performing the same search in the California State Cases Combined in LexisNexis returns four times as many results.

Lemon, 403 U.S. at 664-65; *Zorach*, 343 U.S. at 313-14; *Perumal*, 198 Cal. App. 3d at 84. Furthermore, and importantly for the instant case, the Supreme Court has stated that hostility is prohibited by the Free Exercise Clause alone.

In *Church of Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 534 (1993), the Supreme Court stated that "[t]he Free Exercise Clause protects against government hostility which is masked, as well as overt." In *Lukumi*, Justice Souter noted in his concurring opinion that

> [t]here appears to be a strong argument from the Clause's development in the First Congress, from its origins in the post-Revolution state constitutions and pre-Revolution colonial charters, and from the philosophy of rights to which the Framers adhered, that the Clause was originally understood to preserve a right to engage in activities necessary to fulfill one's duty to one's God.

Id. at 575-76 (Souter, J., concurring).

Rachel L.'s parents are trying to fulfill their duty to God by "educat[ing] their children in a manner consistent with these beliefs, and to protect their children from being exposed to contrary values." (Father's Br. on Reh'g at 44). The writ seeks an order, asking this Court to require Rachel L. parents to send their children to school in lieu of allowing home-schooling. Since the Free Exercise Clause preserves Rachel L.'s parents' right to engage in activities pursuant to their duty to God, the remedy asked for by the writ would violate the principles articulated in Justice Souter's concurrence in *Lukumi*. The requested order would be hostile toward

actions carried out pursuant to sincerely held religious beliefs.

While a main point of Justice Souter's concurrence was to question the validity of the rule laid down in *Employment Division, Department of Human Resources of Oregon v. Smith*, 494 U.S. 872 (1990), that dispute need not be settled to recognize the validity of some aspects of Justice Souter's assertions. As Justice Souter stated, the scholarship on this point is not uniform. However, this *Amicus* Brief will address those items that are less speculative and more easily demonstrated. On the basis of this historical data alone, it is clear that the remedy proposed by the writ is hostile toward religion, and thus violative of the Free Exercise Clause.

As Justice Souter noted, one of the indications that the Free Exercise Clause was designed to "preserve a right to engage in activities" is the development of the Clause. While the debates over the final language of the Free Exercise Clause are not recorded, one important change has been noted by many scholars: over the course of twenty drafts, the language of freedom of conscience was replaced with freedom to exercise religion. *See, e.g.*, John Witte, Jr., *Religion and the American* Constitutional Experiment: Essential Rights and Liberties 72 (2000). Not only religiously motivated beliefs, but also religiously motivated actions, were to be protected from government hostility.

However, accepting this premise, one must look elsewhere for what exactly the Framers considered government hostility to be. As the United

States Supreme Court has stated, it has "recognized that the provisions of the First Amendment, in the drafting and adoption of which Madison and Jefferson played such leading roles, had the same objective and were intended to provide the same protection against governmental intrusion on religious liberty as the Virginia Statute [i.e., the Virginia Bill for Religious Freedom]." *Everson v. Bd. of Educ.*, 330 U.S. 1, 13 (1947). James Madison's *Memorial and Remonstrance Against Religious Assessments* has similarly been cited as the document that cleared the way for the passage of the Virginia Statute. *Id*. Justice Douglas also specifically noted the *Memorial's* relevance to Free Exercise principles. *Walz*, 397 U.S. at 706 (Douglas, J., dissenting).

By looking at the available data from the Drafters of the First Amendment, at the Virginia Statute of Religious Freedom, at James Madison's *Memorial and Remonstrance*, and at Justice Story's *Commentaries on the Constitution*, one can discern the principles animating the Federal Free Exercise Clause that were aimed at defeating anti-religious hostility. The first principle has already been noted: the Clause protects actions, not just beliefs. Second, the Clause was designed to prevent burdens from being imposed on the basis of religion. Third, religion should not be "leveled" with other aspects of our public life. This "anti-leveling" principle is closely related to the idea of encouraging religion. *Amicus* will

address the first and second principles in Part A. below, and then *Amicus* will address the anti-leveling principle in Part B. below and show how it relates to the principles already addressed.

A. Virginia's Battle Over Religious Liberty Is a Leading Example of Hostility and Demonstrates the First Two Animating Principles of the Free Exercise Clause that Should Be Applied in This Case.

The controversy in Virginia over taxing citizens for the support of religion (the assessment controversy) and the documents that that controversy generated has been well documented in the Supreme Court's opinions. *See, e.g., Everson*, 330 U.S. at 9-15. For purposes of this brief, it suffices to point out that the *Virginia Statute for Religious Freedom*, written by Thomas Jefferson, shows at least two types of hostility that would come to be forbidden by the Free Exercise Clause. Although Jefferson's concern in this regard was with the establishment of religion, he implicitly had a concern for the hostility that "unestablished" sects would face. *See* Thomas Jefferson, *Virginia Statute of Religious Freedom*, Article 1, *in* 3 *Annals of America* 53-54 (1968).[4]

1. Religious activities, not just religious beliefs must be protected.

We have already noted that Justice Souter has studied the relevant material and come to the conclusion that actions were covered. Thus, your

[4] This document is often referred to as the Virginia Bill for Religious Liberty. These documents are, in fact, the same and will hereinafter be cited to as *The Virginia Statute of Religious Freedom* as titled in the *Annals of America*.

Amicus will only add one example from the assessment controversy and show how that is related to the language of the Free Exercise Clause. In the *Memorial and Remonstrance*, Madison noted that religion was the "duty we owe the Creator *and the manner of discharging it* . . . ." James Madison, *Memorial and Remonstrance Against Religious Assessments*, Article 4, *in* 3 *Annals of America* 17 (1968). This latter expression clearly covers actions. It is instructive that the first Congress understood the necessity of emphasizing actions as opposed to mere beliefs. This was the point, noted above, of moving from the language of "freedom of conscience" (which covers beliefs) to the language of "free exercise of religion" (which covers both beliefs and actions). It was important to protect this "duty"—including the "manner" part of it—because "'this duty is precedent, both in order of time and degree of obligation, to the claims of Civil Society.' Madison, therefore, viewed religion as entailing a belief in God and the believer's duty to the 'Universal Sovereign' took precedence over the claims of government." Lee J. Strang, The *Meaning of "Religion" in the First Amendment*, 40 Duq. L. Rev. 181, 225 (2002) (quoting 8 *The Articles of James Madison* 299-300 (Robert A. Rutland, *et al.* eds. 1996)).

2. Religion must not be burdened.

The assessment controversy also demonstrates the second principle. Religion—both belief and action—must not be burdened. Probably, the most telling passage from Jefferson's Bill is the second Article which states

that "no man shall be . . . enforced, restrained, molested, or burdened, nor shall otherwise suffer on account of his religious opinions." Thomas Jefferson, *Virginia Statute of Religious Freedom*, Article 2, *in* 3 *Annals of America* 54 (1968). Jefferson, along with the Virginia General Assembly when it passed the statute in 1786, was concerned with governmental acts that went beyond encouragement, created an establishment, and might subsequently lead to the suppression of the free exercise of religion. The kind of discouragement, or hostility, that the Bill prevented was, in part, one in which people would be "burdened."

Similarly, the *Memorial and Remonstrance* demonstrates a concern that the free exercise of religion not be burdened. As pointed out by Justice Thomas in *Rosenberger v. Rector and Visitors of Univ. of Virginia*, 515 U.S. 819, 854-55 (1995) (Thomas, J., concurring), Madison, at several points in the *Memorial* was concerned that some sects would be comparatively burdened by not being eligible for benefits extended to other sects. When speaking of the exemption made to the Quakers and Mennonites, Madison asked, "Ought their religions to be endowed above all others . . . ?" James Madison, *Memorial and Remonstrance Against Religious Assessments*, Article 4, *in* 3 *Annals of America* 16, 18 (1968).

Undeniably, the remedy requested by the writ would burden Rachel L.'s parents. All parents whose beliefs do not conflict with public education can easily comply with the statute, while parents who believe it is

their duty to educate their children at home are subject to legal sanctions. The legal sanctions required by California Education Code § 48293 (2007) that the trial court would enforce would be triggered by the parents' duty to abide by the Scriptures' requirement to raise their children morally–a quintessential exercise of religion.

B. Joseph Story's View of the Free Exercise Clause is Pertinent Because His Understanding is That the Clause Allows Government Encouragement of Religion.

The third principle, namely that religion should not be leveled with other societal influences, has also been articulated in terms of encouragement of religion. As this Brief has noted previously, the United States Supreme Court has seen hostility and encouragement as opposites. Therefore, it is important to note that in Joseph Story's influential *Commentaries on the Constitution of the United States,* the connection between encouragement and the other Free Exercise values noted in this brief is explicitly stated. First, Story notes that "it is the especial duty of government to foster, and encourage [religion] among all the citizens." Joseph Story, *Commentaries on the Constitution of the United States* § 1865 (Arthur E. Sutherland ed., Da Capo Press 1970) (1833). Then he notes that the Religion Clauses go beyond freedom of conscience to include action and that they contain an anti-leveling component:

> Probably at the time of the adoption of the Constitution, and of the amendment to it, now under consideration, the general if not the universal, sentiment in

> America was, that Christianity ought to receive encouragement from the state, so far as was not incompatible with the private rights of conscience, and the freedom of religious worship. An attempt to level all religions, and to make it a matter of state policy to hold all in utter indifference, would have created universal disapprobation, if not universal indignation. Documents from Virginia's battle over religious liberty evince an attitude of prohibition towards government hostility.

Id. at § 1865.

The Supreme Court has noted that it has rejected this passage from Story to the extent–but *only* to the extent–that it limits encouragement to the Christian religion. *Wallace*, 472 U.S. at 52 (1984). However, as we have seen earlier, the Supreme Court has also repeatedly stated the ongoing validity of state encouragement of religion. Similarly, Story's concern about the leveling of Christianity with other religions no longer animates Free Exercise jurisprudence.

As was noted by the *Yoder* Court:

> if the Amish asserted their claims because of their subjective evaluation and rejection of the contemporary secular values accepted by the majority, much as Thoreau rejected the social values of his time and isolated himself at Walden Pond, their claims would not rest on a religious basis. Thoreau's choice was philosophical and personal rather than religious, and such belief does not rise to the demands of the Religion Clauses.

Wisconsin v. Yoder, 406 U.S. 205, 216 (1972). Likewise, Justice Brennan has noted that "the Constitution is not neutral on the subject of religion: Under the Free Exercise Clause, religiously motivated claims of conscience may give rise to constitutional rights that other strongly held beliefs do

not." *Marsh v. Chambers*, 463 U.S. 783, 812 (1983).

Thus, in the instant case, the remedy requested in the writ would fail to "encourage" religious exercise, as the term has historically and currently been used. In fact, as noted, it is hostile to it. In fact, the requested remedy goes beyond leveling religious parents with other parents, which the Founders did not want, the remedy would uniquely burdening Christian parents. Christian parents who believe it is their religious duty to educate their children in their home would be forced to choose between fulfilling their duty to God and complying with the writ's interpretation of California's compulsory education law. Because the remedy requested by the writ would exhibit hostility towards religion, it would violate the above principles and would violate the Free Exercise Clause.

II. *WISCONSIN V. YODER* SHOULD GUIDE THE ANALYSIS OF THIS CASE BECAUSE THE SIMILARITIES TO *YODER* ARE MORE SIGNIFICANT THAN THE DIFFERENCES.

This panel, in its previous decision, attempted to distinguish *Wisconsin v. Yoder*, 406 U.S. 205 (1972), from the instant case by reciting a number of differences between the Amish and Rachel L.'s parents.[5] *In re Rachel L.*, 160 Cal. App. 4th 624, 635-36 (Cal. App. 2d Dist. 2007). While there are a number of distinctions between the Amish and the parents in this case, for the most part, those distinctions are irrelevant.

[5] Father discusses *Yoder* in his brief, but does not raises the issues that your *Amicus* discusses. (Father's Br. on Reh'g at 33.)

Primarily, the *Yoder* Court noted the extensive record which illustrated that the Amish's beliefs' were "not merely a matter of personal preference, but one of deep religious conviction, shared by an organized group, and intimately related to daily living." 406 U.S. at 205. This Court noted that, in contrast, there was no record detailing the extent of Father's beliefs. However, as Father noted, the Supreme Court does not routinely require as strong of a showing in history and tradition of religious belief as was evidenced in *Yoder*. (Father's Br. on Reh'g at 42, (citing *Smith v. Fair Employment & Hous. Com*., 12 Cal. 4th 1143, 1168 (1996)).) If a lack of evidence is what this Court was concerned about, *In re Rachel L.*, 160 Cal. App. 4th at 636, it could have remanded the case for more fact finding, rather than issuing its decision and dismiss parents' claim of religious motivation as untrustworthy.

Despite the minor differences just noted, *Yoder* has a number of similarities which should be outcome determinative. First of all, *Yoder* held that objections to secular education could not be based on "subjective evaluation and rejection of the contemporary secular values," but rather must be based "on a religious basis." *Yoder*, 406 U.S. at 216. That is exactly what happened here, and that alone could be enough to determine the outcome of the case. But there is more.

The *Yoder* Court rejected the state's *parens partriae* argument. *Id.* at 231. Wisconsin argued that it should "'save' a child from himself or his

Amish parents." *Id.* However, the Court quickly rejected such an argument, holding that by doing so "the State will in large measure influence, if not determine, the religious future of the child." *Id.* Such a state action would clearly violate the religious rights of both the parents and the child. Similarly, the remedy requested by the writ would do the same thing. The writ asks this Court to "save" the minor children from the influence of their parents and put them into a formal education. The *Yoder* Court has already held this type of forced rescue to be unconstitutional.

Additionally, the *Yoder* Court also noted that it is the parents who face the penalty for not sending their children to school. *Id.* at 230-31. While the parents in *Yoder* faced criminal penalties, the parents in the instant case face civil fines. Cal. Ed. Code § 48293 (2007). So even if the parents have a strong religious belief that dictates that they must not send their children to school, and instead should instruct them at home, the state is going to charge them up $500 for each infraction of this law under remedy requested by the writ. *Id.*

Interestingly, there is one distinction that supports *Amicus's* argument. The *Yoder* Court stressed the fact that the Amish would maintain their children in some form of organized school, up through eighth grade, but would then remove the children from modern education to begin incorporating them into the Amish communities through trade education. *Yoder*, 406 U.S. at 222. However, the home-schooling families want a

much more modest accommodation. They will continue to educate their children through twelfth grade. This will provide the children with what they will need to participate in modern culture. *Id.* The remedy requested by the writ is hostile to religion because it would punish the parents solely for following their sincerely held religious beliefs.

CONCLUSION

For the foregoing reasons, and for other reasons stated in the Father's Brief, and by other *Amici Curiae*, this Court should deny the writ and affirm the decision of the Juvenile Court.

Respectfully submitted
this 19th day of May, 2008

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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief has been prepared using proportionately double-spaced 13 point Times New Roman typeface. According to the "Word Count" feature in Microsoft Word 2007, this brief, from page 1 through and including the signature lines that follow the brief's conclusion, contains 4,155 words. I declare under penalty of perjury that this Certificate of Compliance is true and correct and that this declaration was executed on May 19, 2008.

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CERTIFICATE OF SERVICE

I hereby certify that I have duly served the attached *Amicus Brief* in the case of *In re Rachel L.*, No. B192878, on all required parties by depositing the required number of copies of the same in the United States mail, first class postage, prepaid on May 19, 2008, addressed as follows:

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I furthermore certify that I served the California Supreme Court with an electronic copy of the attached brief pursuant to Rule 8.212(c)(2)(A) through the court's electronic notification address.

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