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Legal Writing Sample

Appellate Brief – Constitutional and Statutory Analysis

This writing sample is an appellate brief drafted in support of reversal of a trial court's ruling involving constitutional challenges, statutory interpretation, and parental rights. It demonstrates my ability to develop complex legal arguments, synthesize case law, and present structured, persuasive analysis in a high-stakes appellate context. The case resulted in a successful outcome on appeal.

In The Court of Appeals
State of Georgia

KRYSTLE VENTICINQUE, *Appellant,* vs. **AMBER LAIR,** *Appellee.*	))))))))))))	**CASE NO.: A25A1011**

BRIEF OF APPELLANT-PARENT KRYSTLE VENTICINQUE

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BRIEF OF APPELLANT-PARENT

PART ONE: INTRODUCTION[1]

Appellant-Parent Krystle Venticinque seeks reversal of the *Order Denying Motion to Dismiss* [challenging the constitutionality of O.C.G.A. §19-7-3.1] *and Order Adjudicating Plaintiff as Equitable Caregiver and Temporary Order as to Custody and Visitation,* entered June 12, 2023 (V2-328-337)(hereinafter *Order Denying Constitutional Challenge and Granting EC Status)*[2], *Amended Final Order on Plaintiff's Petition for Custody, Visitation, and Child Support*, entered November 1, 2024 (V3-1169-1173)[3], the *Parenting Plan Order*, entered November 4, 2024 (V3-1174-1187), the *Child Support Addendum,* entered November 4, 2024 (V3-

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[1] Because of the Rule 24(f)(1) word limit and the important issues raised and the references to the Record on Appeal including the transcript, pursuant to Rule 23(a), Appellant-Parent adopts and incorporates all of (1) *Appellant-Parent's Amended Request for Oral Argument,* filed February 20, 2025, (2) *Brief of Appellant [Michelle Dias],* Supreme Court of Georgia, Case No. S24A0887 (April 4, 2024), (3) *Brief of Amicus Curiae National Association of Parents, Inc. d/b/a ParentsUSA,* Supreme Court of Georgia, Case No. S24A0887 (October 11, 2024), (4) *Amended Supplemental Brief of Amicus Curiae National Association of Parents, Inc. d/b/a ParentsUSA,* Supreme Court of Georgia, Case No. S24A0887 (November 5, 2024), and (5) Part B (Children Are The Unintended Victims Of O.C.G.A. §19-7-3.1) of *Second Supplemental Brief of Amicus Curiae National Association of Parents, Inc. d/b/a ParentsUSA,* Supreme Court of Georgia, Case No. S24A0887 (February 17, 2025)(motion filed December 15, 2024, with *Second Supplemental Brief* attached, *Order* granting leave entered December 16, 2024, inadvertently the *Second Supplemental Brief* was not filed until February 17, 2024).

[2] Hearing held on March 27, 2023 (T4).

[3] Hearing held on August 14, 2024 (T7).

1188-1199)(collectively hereinafter *Final Order on Custody, Visitation, and Support)*, the *Order on Petitioner's Motion to Convert Amended Final Order On Petitioner's Petition for Custody, Visitation, and Child Support, Parenting Plan and Child Support Addendum to Temporary Order,* entered December 19, 2024 (V3-121-12-13)(hereinafter *Order Converting Final Order to Temporary Order)*, and each underlying order awarding attorney's fees to Appellee from Appellant including, but not limited to, the *Amended Order on Motion to Compel Discovery and Order Awarding Attorney's Fees,* entered November 27, 2023 (V2-537-538), with this Honorable Court remanding the case to the trial court with directions:

1. To deny Appellee's *Petition for Equitable Caregiver Status,* filed December 18, 2022 (V2-5-10).
2. To order that Appellant owns the dependency exemptions for the minor child retroactively for 2024.
3. To deny Appellee any relief on the (phantom) *Plaintiff's Petition for Custody, Visitation and Child Support* to which the trial court referred in its *Amended Final Order on Plaintiff's Petition for Custody, Visitation, and Child Support*, entered November 1, 2024 (V3-1169-1173)(emphasis added).[4]

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[4] Counsel for Appellant-Parent reviewed pages 1 to 1218 of the Record on Appeal within Volumes 3 and 4 and also reviewed the two Indexes and did not find

4. To enter orders requiring the repayment from Appellee to Appellant of all child support paid by Appellant to Appellee, and to enter orders requiring repayment from Appellee to Appellant of all attorney's fees paid by Appellant to Appellee awarded because of discovery disputes for discovery Appellant should not have been required to answer.
5. To permit Appellant-Parent to seek an award of attorney's fees and expenses of litigation and to hold hearings thereon with the intention to reimburse Appellant-Parent for such the fees and expenses Appellant-Parent should not have expended under the pleadings and the facts. Appellee-Non-parent, through August 7, 2024, paid legal fees and expenses totaling approximately $67,344.25. (V3-982).

The primary physical custody of the minor child born in July 2021 to Appellant-Parent biological mother, whom the trial court did not find to be unfit,

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Plaintiff's Petition for Custody, Visitation and Child Support to which the trial court referred. On March 24, 2023, before the March 27, 2023, hearing (T4), Appellee filed *Plaintiff's Enumerated Prayers for Relief* in which she included an award of equitable caregiver status, primary legal and physical custody, and visitation, and the award to Appellant from Appellee of child support (V2-134). On August 14, 2024, on the same day as the final hearing (T7), Appellee filed her response to Appellant's subpoena duces tecum (V3-860) wherein Exhibit 51 is *Plaintiff's Request for Final Relief* wherein Appellee seeks joint legal custody with Appellee being the primary physical custodian, Appellant is awarded visitation as Appellee proposed in her parenting plan, and Appellant pay child support to Appellee (V3-960). However, *Plaintiff's Petition for Custody, Visitation and Child Support* is nowhere to be found.

to Also ordered a new Birth Certificate (V2-652,654) was awarded the Appellee-Nonparent, together with joint legal custody and final decision making authority, the dependency exemption, and child support from Appellant-Parent, and the Appellant-Parent was awarded only visitation a/k/a parenting time. (V2-328-337, V3-1169-1173). Under *Dias v. Boone,* S24A0887 (GA February 18, 2025), reversal is compelled, even if much of the *Dias v. Boone* opinion is *dicta,* such *dicta* is instructive, within *Dias v. Boone,* the Supreme Court provided a primer on the fundamental constitutional rights of parents and the limits to the infringement of such rights by the State citing binding Georgia Supreme Court and Court of Appeals decisions.

Reversal also is compelled because the ***relevant*** evidence before the trial court was insufficient to allow a finding by clear and convincing evidence that the health and welfare of the child would suffer significant harm[5] without awarding Appellee-Nonparent status as an equitable caregiver, thereby obviating any consideration of whether the best interests of the child would be served by an award of custody or visitation. (V2-328-337, V3-1169-1173). The trial court found that, at most, the

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[5] Appellant-Parent used shorthand terminology and convention, as Georgia's trial courts including the Supreme Court in *Barnhill v. Alford,* 315 Ga. 304, 313, 882 S.E.2d 245, 253 (2022) often do, reducing the correct threshold to merely "harm" or "emotional harm." The correct standard is "clear and convincing evidence the child will suffer either physical harm or **significant, long-term emotional harm** … ." *Strickland v. Strickland*, 298 Ga. 630, 631, 783 S.E.2d 606(2016) *citing Clark v. Wade*, 273 Ga. 587, 598-599, 544 S.E.2d 99(2001)(emphasis added). "Emotional harm" used herein is shorthand for "significant, long-term emotional harm."

Appellee-Nonparent had expectations of being involved with and close to the child, but that the Appellant-Parent left Georgia with the child on or about November 15, 2022, and did not return. (V3-1170).

The Appellee-Nonparent had no contact with the child from November 15, 2022, until "issuance of the Court's order Granting [Appellee-Nonparent]" equitable caregiver status on June 12, 2023. (V3-1170). At the hearings on March 27, 2023 (T4) and on August 14, 2024, there was no testimony, lay or expert, to permit the trial court to find that a child from birth through sixteen (16) months of age could sufficiently bond with Appellee-Nonparent such that, without any direct evidence of actual harm to the child from ending contact with the Appellee-Nonparent on or about November 15, 2022, through June 12, 2023, the child had suffered long-term emotional harm to support the award of equitable caregiver status, compel "reuniting the child" with Appellant-Nonparent as might be the situation with a nanny, and there was no testimony that this child had suffered long-term emotional harm. Furthermore, Appellant-Parent did not consent to Appellee-Nonparent "to have a parental relationship with the child," O.C.G.A. §19-7-3.1(f), as the term "consent" is interpreted in light of *Dias v. Boone, id.,* and when the only period of time relevant to such a determination is after the birth of the child during July 2021, following which the Appellant-Parent and Appellee-Nonparent did not marry, although they could have, and Appellee-Nonparent did not file a petition seeking to adopt the child,

although she could have, which adoption petition would have required the formal written consent of the Appellant-Parent. O.C.G.A. §19-8-6.

Viewing the evidence in the light most favorable to the trial court's *Final Order,* the evidence failed to satisfy the appellate standard of review. *Leach v. Warner,* 360 Ga. App. 856, 862 S.E.2d 153, 154 (2021). Furthermore, the trial court failed adequately to support its findings of fact and, for future cases, not this one, this Court should articulate what degree of specificity in findings of fact is sufficient. Here, remand for the trial court is unnecessary because there was no evidence from which the findings necessary to support the award could have been made.

Reversal also is necessary because O.C.G.A. §19-7-3.1 is unconstitutional as applied by the trial court. Appellant-Parent restates and incorporates by reference the *Dias v. Boone* opinion wherein the Supreme Court of Georgia, over forty-nine (49) pages in its unanimous decision, proclaims:

> "This case raises serious questions about whether the Equitable Caregiver Statute violates the fundamental right of parents to the care, custody, and control of their children[,]" *Dias v. Boone* at 2.
>
> "Dias's arguments [about due process rights being violated and violation of equal protection] raise serious questions about the constitutionality of the Equitable Caregiver Statute[,]" *Id.* at 22.
>
> "Dias raises serious constitutional questions about the statute [due, in part, to the statute's failure explicitly to require trial court's to give deference to a parent's judgment as to the best interests of the child …" and its failure to "contain[ ] [a] presumption that it is in the best interest of a child to be in the custody of her legal parent." *Id.* at 29.

> "Absent a requirement that the relief awarded be tailored to the specific harm demonstrated by clear and convincing evidence, serious questions about the statute's constitutionality exist." *Id.* at 32.
>
> "In most contexts, a waiver of constitutional rights must be knowing, voluntary, and intelligent in order to be effective." *Id.* at 34.
>
> "In sum, Dias's challenge to O.C.G.A. §19-7-3.1 raises novel, difficult, and important questions. We have serious concerns about the constitutionality of the statute[.]" *Id.* at 48.

The Supreme Court avoided ruling on these serious questions of constitutionality by reversing the trial court because the "adjudication as an equitable caregiver was based on Dias's actions undertaken solely prior to the effective date of the statute[.]" *Id.* at 49. This Honorable Court can be guided by *Dias v. Boone,* in particular the observation that:

> It is plainly true that adjudicating someone as an equitable caregiver does not terminate any parental rights. But it is also plainly true that affording a third party new rights to custody, visitation, or other matters that fit parents otherwise control effectively diminishes the fit parent's rights.

Id. at 29, FN11.

PART TWO: JURISDICTIONAL STATEMENT

The Court of Appeals has jurisdiction pursuant to Ga. Const., Art. VI, Sec. 5, Par. III, and the Appellate Jurisdiction Reform Act, O.C.G.A. §15-3-3.1(a)(6), as the issues do not fall within the Supreme Court's jurisdiction or upon other courts by law and pursuant to O.C.G.A. §5-6-34(a)(1), O.C.G.A. §5-6-34(a)(11), O.C.G.A.

§5-6-34(d). This appeal does not require a discretionary application. *Dias v. Boone, id.* at 18-22.

"[A]pplying the canon that '[s]tatutes should be interpreted to avoid serious constitutional concerns where such an interpretation is reasonable[,]'" *Baldwin County v. Department of Behavioral Health and Developmental Disabilities,* 903 S.E.2d 146, 152 (Ga. App. 2024)(citations omitted), this Court of Appeals can interpret O.C.G.A. §19-7-3.1 with respect to how trial courts must apply it.

Concerning the constitutional issue of equal protection raised, either O.C.G.A. §19-7-3.1 is unconstitutional for allowing petitions against parents who do not live together, or it subjects all parents, including those who reside together, to petitions for Equitable Caregiver Status. The Supreme Court would have exclusive jurisdiction according to Ga. Const., Art. VI, Sec. 6, Par. II(1) and O.C.G.A. §15-2-8(1) and (2). If this Court considers transferring this appeal to the Supreme Court, Appellant-Parent urges this Court to first reverse the trial court's orders and judgments based on the grounds provided herein and to issue an order to vacate decisions that impair and interfere with Appellant-Parent's free exercise of her role as the sole legal and physical parent to the child.

The constitutional questions were raised below by Appellant-Parent's *Motion to Dismiss* and *Brief in Support of Motion to Dismiss,* V2-295-306. In the *Order Denying Constitutional Challenge and Granting EC Status,* the trial Court denied

the *Motion to Dismiss.* (V2-329-332). The trial court issued its *Certificate of Immediate Review.* (V2-338). Appellant-Parent filed her *Application for Interlocutory Appeal* in the Georgia Supreme Court on June 26, 2023, Case No. S23I1065, which was denied on August 3, 2023.

PART THREE: THE APPEAL IS TIMELY

Amended Final Order on Plaintiff's Petition for Custody, Visitation, and Child Support, entered November 1, 2024 (V3-1169-1173); the *Parenting Plan Order*, entered November 4, 2024 (V3-1174-1187); the *Child Support Addendum,* entered November 4, 2024 (V3-1188-1199).

Notice of Appeal, entered November 26, 2024. V2-1-3.

PART FOUR: ENUMERATIONS OF ERRORS

1. The trial court erred in adjudicating Appellee-Nonparent an equitable caregiver without any finding of fact that Appellant-Parent fostered or supported a bonded and dependent relationship with the child and Appellant-Parent understood, acknowledged, or accepted or behaved as though Appellee-Nonparent is a parent of the child, as required by O.C.G.A. §19-7-3.1(d)(3). (V2-333-334).

2. The trial court erred in placing the burden of proof on Appellant-Parent to "demonstrate that the child will suffer physical harm or long-term emotional harm if [Appellee-Nonparent's] petition is granted. (V2-333-334).

3. The trial court in adjudicating Appellee-Nonparent an equitable caregiver without any finding of fact, by clear and convincing evidence, that the child has or will suffer physical harm or long-term emotional harm without the child continuing his relationship with Appellee-Nonparent, only finding that the child "had established a strong bond with [Appellee-Nonparent]" and the child "had established a strong bond with [Appellee-Nonparent]" omitting entirely any reference to a dependent relationship by the child (V2-333-334). If such findings of fact are to be assumed to have been made or implicit, then such findings are not supported by competent evidence in the record when the only testimony on the issue of harm to the child was Appellee-Nonparent testifying "I feel like he feels like maybe I abandoned him and I don't want him to feel that way[ ]" and, in response to her counsel's question "Do you think he misses you?" her answer "Absolutely." (T4-147, ll. 16-18, over objection ll. 19-25, T4-148, ll. 3-12). There was no testimony, lay, opinion, even speculation, concerning the child having formed a dependent relationship with Appellee-Nonparent as required.

4. The trial court erred in finding the child had formed a meaningful bond with Appellee-Nonparent during the short period from his birth in July 2021, through November 15, 2022, with contact not greater or more meaningful than a nanny, aunt, uncle, grandparent, stepparent, or neighbor might develop,

without expert testimony, seeming to base this finding of fact on less than clear and convincing evidence and on the "photographic evidence [Appellee-Nonparent]" introduced. (V2-333-334).

5. The trial court erred in finding the child had formed a bond with Appellee-Nonparent during the period from July 2021, through November 15, 2022, without expert testimony, seeming to base this finding of fact on less than clear and convincing evidence and on the "photographic evidence [Appellee-Nonparent] introduced. (V2-333-334).

6. The trial court erred by not narrowly tailoring the award to the harm or threatened harm that had been shown by clear and convincing evidence. *Dias v. Boone, id.* at 30, and to _any_ particular decision by Appellant-Parent that caused such harm. *Id.* at 31.

7. The trial court erred by failing to compare the harm to the child without equitable caregiver status and visitation being awarded to Appellee-Nonparent to the harm to the child by the award and doing so without imposing a legal duty upon the Appellee-Nonparent as parents in Georgia have by virtue of O.C.G.A. §19-7-2.

8. The trial court erred by denying Appellant-Parent's motion to dismiss (V2-295-297, 298-306) on the ground that O.C.G.A. §19-7-3.1 is unconstitutional. (V2-329-332).

9. The trial court erred by allowing and considering irrelevant and incompetent evidence addressing and speculating that the child had suffered harm that was not probative and was inadmissible layperson opinion evidence.

10. The trial court erred by entering its *Order on Petitioner's Motion to Convert Amended Final Order on Petitioner's Petition for Custody, Visitation, and Child Support, Parenting Plan and Child Support Addendum to Temporary Order,* entered December 19, 2024 (V3-1212-1213).

PART FIVE: STATEMENT OF THE CASE

Appellant-Parent restates and incorporates by reference the Introduction, herein above, and also provides the following proceedings and facts of this case:

July 2021: The minor child is born to Appellant-Parent biological mother. (¶¶2, V2-31, V2-652,654).

December 18, 2022: ***Petition for Equitable Caregiver*** and ***Affidavit of Amber Lair.*** V2-5-13. Appellant-Parent and Appellee-Nonparent are unmarried. ¶11, V2-7. Appellee-Nonparent has not had contact with the child since November 15, 2022, when he left Georgia with his mother. ¶¶7, 12-14, V2-7-8, ¶¶5, 7-8, V2-11-12.

January 9, 2023: ***Response to Plaintiff's Petition for Equitable Caregiver Status*** and ***Affidavit of Krystle Venticinque.*** V2-25-32. Appellant-Parent challenges the constitutionality of O.C.G.A.

	§19-7-3.1, denies the pertinent allegations made by Appellee-Nonparent, and alleges (undisputed) that the parties never married and that Appellee-Nonparent did not adopt her son. Second Defense through Fifth Defense, inclusive. V2-25-28, ¶¶2-12, V2-31-32.
March 27, 2023:	**Hearing (both parties represented by counsel).** T4. Arguments on the constitutionality of O.C.G.A. §19-7-3.1, the court taking the motion under advisement, both parties to file briefs on the issue of constitutionality. T4-33, 245. Equitable Caregiver standing issue presented with the court not ruling. T4-245-248.
April 4, 2023:	***Defendant's Motion to Dismiss and Brief in Support Thereof.*** V2-295-306.
April 14, 2023:	***Plaintiff's Response to Defendant's Motion to Dismiss and Brief in Support Thereof.*** V2-309-325.
June 12, 2023:	***Order Denying Motion to Dismiss* [challenging the constitutionality of O.C.G.A. §19-7-3.1] *and Order Adjudicating Plaintiff as Equitable Caregiver and Temporary Order as to Custody and Visitation.*** V2-328-337.

June 26, 2023: ***Application for Interlocutory Appeal,*** Supreme Court of Georgia, S23I1065.

August 3, 2023: ***Order*** denying **Application for Interlocutory Appeal,** Supreme Court of Georgia, S23I1065.

November 27, 2023: ***Amended Order on Motion to Compel Discovery and Order Awarding Attorney's Fees.*** V1-537-538.

August 14, 2024: **Plaintiff's Exhibit 55, August 14, 2024,** ***Evidence on Appeal.*** V3-982. Amber Lair, Petitioner-Appellee-Nonparent, approximate total paid legal fees and expenses $67,344.25.

August 24, 2024: **Hearing**. Appellant-Parent Krystle Venticinque without counsel, appearing *pro se.* Appellee-Nonparent Amber Lair appearing with her counsel. T7.

November 1, 2024: ***Amended Final Order on Plaintiff's Petition for Custody, Visitation, and Child Support.*** V3-1169-1173.

November 4, 2024: ***Parenting Plan Order.*** V3-1174-1187. ***Child Support Addendum.*** V3-1188-1199.

November 26, 2024: ***Notice of Appeal.*** V2-1-3.

December 19, 2024: ***Order on Petitioner's Motion to Convert Amended Final Order On Petitioner's Petition for Custody, Visitation, and***

Child Support, Parenting Plan and Child Support Addendum to Temporary Order. V3-121-12-13.

A. Relevant Evidence About The Child:

1. At the March 27, 2023, hearing on standing, preceded by argument of counsel on the constitutionality of O.C.G.A. §19-7-3.1, on the issue of harm to the child, the only evidence presented to the trial court was:

   a. From Alisha Milhollan, a friend of the parties who "rented a space in their antique mall." T4, 34-35. Ms. Milhollan only had seen the child "maybe five times 2 and there." T4, 37, ll. 14-19. However, after the child was born, Ms. Milhollan did not have opportunities to "witness with [her] eyes very much[.]" T4-45, ll. 20-25, 46-l. 1. However, Ms. Milhollan, although opining about the caretaking by Appellee-Nonparent, did not actually see it. T4-50, ll. 2-25 ("I didn't see it"). She also did not know whether or not Appellant-Parent encouraged that bond in a parental relationship with the child. T4-51, ll. 1-20. ("I don't know honestly."). When asked about harm to the child, counsel for Appellant-Parent objected and the court "heard the testimony" and was "going to take it under advisement" notifying counsel "I've seen a lot of cases in my old life." The court cannot use other cases to determine whether this child would suffer harm if the relationship with Appellee-

Parent was not continued via the equitable caregiver adjudication, yet that is precisely what the court did. After the objection of counsel and discussion by the court, Ms. Milhollan did not testify about harm to the child. T4-53, ll. 12-16, T4-55, ll.10-25, T4-56, ll.1-3. On cross-examination, Ms. Milhollan confirmed that the parties had a plan but that "[t]he plan never went to the end" "and it didn't happen because [Appellant-Parent] left before it could happen [when the child was one and a half in November 2022]." T4-62, ll. 3-21.

b. When Appellee-Nonparent testified, the only opinion she provided to support any contention that the child would suffer harm by not continuing a relationship with her was her testimony that "I feel like he feels like maybe I abandoned him and I don't want him to feel that way." T4-147, ll. 16-25, T4-148, ll. 1-5 (over objection of counsel that she is not qualified as a lay person to testify about what harm would befall this child). Appellee-Nonparent only added that she thinks the child missed her. T4-148, ll. 11-12.

c. A word search for "harm" within the March 27, 2023, transcript reveals ZERO other testimony or evidence of the word harm, only the arguments of counsel.

2. At the August 15, 2023, hearing on contempt, a word search for "harm" within

the transcript reveals ZERO testimony or evidence, only during the arguments of counsel and by the trial court. T5.

3. At the July 1, 2024, hearing on contempt and motion to suspend summer visitation, a word search for "harm" within the transcript reveals ZERO use. T6.

4. At August 14, 2024, hearing on best interests (equitable caregiver adjudication having previously been determined erroneously by the trial court without adequate competent evidence that the child would suffer harm, by clear and convincing evidence, should the relationship with the Appellee-Nonparent not continue) on the issue of harm to the child, the evidence presented to the trial court on August 14, 2024, made no mention of harm to the child other than Appellee-Nonparent testifying that it would not be good if she were to keep the child from Appellant-Parent for nine months and that she recognizes it would be harmful. T7-217, ll. 15-19. A word search for "harm" within the transcript reveals ZERO other uses. T7.

B. The Trial Court's Rulings and Orders:

June 12, 2023: ***Order Denying Motion to Dismiss*** **[challenging the constitutionality of O.C.G.A. §19-7-3.1]** ***and Order Adjudicating Plaintiff as Equitable Caregiver and Temporary Order as to Custody and Visitation.*** V2-328-337.

The trial court erred in denying Appellant-Parent's motion to dismiss on the grounds that O.C.G.A. §19-7-3.1 is unconstitutional, facially or as applied. *Dias v. Boone,* S24A0887 (GA February 18, 2025) and the briefs restated and incorporated by reference as identified and listed in footnote 1, hereinabove. V2-329-332.

With respect to contact between Appellee-Nonparent and the child (which could only take place following Appellant-Parent's delivery of the child in July 2021, through November 15, 2022, when the child and Appellant-Parent left Georgia and Appellee-Nonparent did not have contact again until after June 12, 2023), the trial court found that the Appellee-Nonparent interacted with the child as a nanny would or as a relative or friend would. V2-333. See Part B (Children Are The Unintended Victims Of O.C.G.A. §19-7-3.1) of *Second Supplemental Brief of Amicus Curiae National Association of Parents, Inc. d/b/a ParentsUSA,* Supreme Court of Georgia, Case No. S24A0887 (February 17, 2025), restated and incorporated herein by reference.

The trial court found that the Appellee-Nonparent "engaged in caretaking of the child, and established a bond with the child." V2-333. The trial court made a finding of fact concerning the bond the child formed with Appellee-Nonparent, but did not find that the there was a "dependent relationship" as required by O.C.G.A. §19-7-3.1(d)(3) ("a bonded and dependent relationship") and made no finding of act

that Appellee-Nonparent was in a parental role, that the child's relationship with her was that as though she was a parent of the child. V2-334.

The trial court did not make a finding of fact that Appellant-Parent fostered or supported a bonded and dependent relationship with the child and Appellant-Parent understood, acknowledged, or accepted or behaved as though Appellee-Nonparent is a parent of the child, as required by O.C.G.A. §19-7-3.1(d)(3), and, although the trial court may evaluate the credibility of witnesses and make findings of fact, there was no evidence from which such a finding could have been made (the absence of the required finding of fact renders the court's award of equitable caregiver error). (V2-333-334, V3-1169-1171).[6]

Also missing is a finding of fact that the Appellee-Nonparent fully and completely undertook a permanent, unequivocal, committed, and responsible

[6] Similar to the trial testimony the Supreme Court found significant, *Dias v. Boone*, at 37-38 (FN12), Appellant-Parent testified at trial: *Q. Okay. So Amber was a mom to Levi? Amber was mom to Levi. Can you answer that with a yes? A. I'm going to say no. I wanted her to be a mother. I had intentions of her being a mother but she did not take on the actual role of being a mother.* (T4-91, ll. 13-18). It is undisputed that the engagement was off and on, and they never married. Their plan may have been for Appellee-Nonparent to adopt the child after getting married (requiring the formality of adoption documents and consent), but the marriage and the adoption unquestionably never happened. (T4-114, l. 25, 115, ll. 1-11). Appellant-Parent also testified that she refused to answer Appellee-Nonparent constantly asking her "[A]m I Levi's mom, am I Levi's mom?" (T4-114, ll. 11-21, 116, ll. 3-9). (V2-333-334, V3-1169-1171).

parental role in the child's life as required by O.C.G.A. §19-7-3.1(d)(1). The "and" within O.C.G.A. §19-7-3.1(d)(1) makes it a prerequisite that the trial court find the nonparent to have undertaken all of these. Appellee-Nonparent could have adopted the child, making the parental role permanent, but did not do so or attempt to do so. T4. T7. V2-332-334.

The trial court then addressed "**whether defendant [Appellant-Parent] has demonstrated that the child will suffer physical harm or long-term emotional harm if [Appellee-Nonparent] plaintiff's petition is granted**, and whether continuing the relationship [that the court did not describe, define, or identify other than finding Appellee-Nonparent had established a bond with the child and the child had established a strong bond] between [Appellee-Nonparent] plaintiff and the child is in the best interest of the child." V2-333-334 (emphasis added). The burden of proof is always on the nonparent and the trial court erred in putting the burden on Appellant-Parent. O.C.G.A. §19-7-3.1; *Dias v. Boone,* S24A0887 (GA February 18, 2025).

The trial court then awarded Appellee-Nonparent joint legal custody and visitation. V2-334-337. In doing so, the trial court failed miserably in demonstrating how or why (assuming there was a finding of harm in the absence of continuing the relationship between Appellee-Nonparent, a relationship not different from that of nannies, grandparents, stepparents, neighbors, aunts and uncles, for the even so brief

time from birth through 16 months of age) the periods of time and contact with Appellee-Nonparent was necessary to prevent harm to the child, in increments. *Dias v. Boone, id.*

November 1, 2004: *Amended Final Order on Plaintiff's Petition for Custody, Visitation and Child Support,* V3-1169-1173.

The trial court erred in making findings of fact about the child from evidence prior to the child's birth and from evidence of the plan by the parties to marry and for Appellee-Nonparent to adopt the child, neither of which materialized. Thereafter, the trial court viewed the parties as equals and entered its order, parenting plan, and child support order without regard to the status as *only* Appellant-Parent as a parent and Appellee-Nonparent, at best, an equitable caregiver (if the statute is constitutional and if the findings of fact based on no competent evidence of harm and no evidence of a dependent relationship by the child). *Dias v. Boone, id.*

Further diminishing and disregarding Appellant-Parent being the only parent, the trial court further erred by awarding Appellee-Nonparent primary custody, tie-breaking authority, "parenting time" significantly greater than any award necessary to alleviate any actual harm to the child that was or could have been found by clear and convincing evidence from the testimony and admitted evidence at the hearings. The trial court also went on to award the nonparent Appellee with the dependency exemption and child support from Appellant-Parent. V3-1169-1173. The degree of

intrusion within the award by the trial court vastly exceeds what is permissible under *Dias v. Boone* and O.C.G.A. §19-7-3.1. V3-1169-1173, 1174-1187, 1188-1199.

December 19, 2024: ***Order on Petitioner's Motion to Convert Amended Final Order on Petitioner's Petition for Custody, Visitation, and Child Support, Parenting Plan and Child Support Addendum to Temporary Order,*** V3-1212-1213.

The trial court erred in its analysis and holding regarding the discretionary application, as the Supreme Court in *Dias v. Boone, id.* at 9-22. Accordingly, the trial court's order is erroneous.

PART SIX: ARGUMENTS AND CITATIONS OF AUTHORITIES

A. STANDARD OF REVIEW

The enumerations of error as to the findings of fact and conclusions of law are reviewed "'viewing the evidence in the light most favorable to the trial court's judgment to determine whether any rational trier of fact could have found by clear and convincing evidence that the mandated visitation was authorized.' [*quoting*] *Elmore v. Clay*, 348 Ga. App. 625, 625, 824 S.E.2d 84 (2019) (citation and punctuation omitted). In conducting our review, '[w]e do not weigh the evidence or determine witness credibility, but defer to the trial court's factfinding and affirm unless the evidence fails to satisfy the appellate standard of review.' Id. (citation and punctuation omitted)." *Leach v. Warner*, 360 Ga. App. 856, 862 S.E.2d 153, 154

(2021).

The enumerations of error questioning the construction and application of O.C.G.A. §19-7-3.1, to retain its constitutionality are questions of law. The review is *de novo*. No deference is owed to the trial court's rulings, and the "plain legal error" standard of review is applied. *Suarez v. Halbert*, 246 Ga. App. 822, 824, 543 S.E.2d 733, 735 (2000)(appellate court cannot affirm where trial court's judgment rests on an erroneous legal theory).

B. ARGUMENTS AND CITATIONS OF AUTHORITIES

1. The Errors Are Egregious and Obvious and *Dias v. Boone* Controls

With apologies to this Honorable Court and with a degree of trepidation in doing so, because the trial court so egregiously erred in placing the burden of proof on Appellant-Parent, in failing to make the requisite findings of fact, as set forth with specificity hereinabove, in making findings without sufficient or any evidence concerning the bond between the child and the Appellee-Nonparent and the harm that the child would suffer from any particular decision of the Appellant-Parent and from not continuing whatever relationship the child had with Appellee-Nonparent, certainly far from "clear and convincing evidence," and in making the award to Appellee-Nonparent as the primary physical custodial parent and as the legal parent with final decision making authority, reference to the O.C.G.A. §19-7-3.1 and to *Dias v. Boone,* together with the notations and arguments herein and as are restated

and incorporated herein by reference from the briefing cited in footnote 1, hereinabove, Appellant-Parent suggests this Honorable Court must reverse and provide the relief as requested remanding the case to the trial court with directions

2. Anecdotal Evidence Is Insufficient

The significant, long-term emotional harm to a child from the absence of a relationship with a person in a parenting role with whom *the child* formed a bonded and dependent relationship must be found by clear and convincing evidence. However, there is no appellate decision identifying what evidence is sufficient. Here, no evidence of harm was presented at the March 27, 2023, hearing on standing as set forth hereinabove.[7] This Court should provide definitions and specifications as to what quality and sufficiency of evidence is necessary to prove harm by clear and convincing evidence.

The evidence is undisputed that the last contact before the March 27, 2023, hearing on standing that the child had with Appellee-Nonparent was on November 15, 2023, before which the child was born in July 2021, and had contact with Appellee-Nonparent for his first 16 months of life (during which his cognitive awareness and emotional development are unknown to the trial court, when no

[7] The trial court erroneously received and considered testimony concerning Appellee-Nonparent's feelings, needs, and desires, none of which is probative of whether this child has or will suffer significant long-term emotional harm from *continuing not to have contact* with Appellee-Nonparent

evidence was presented, lay or expert). Since leaving on November 15, 2022, then, the child was without issues or harm and, following being apart from Appellee-Nonparent from November 15, 2022, through the hearing on March 27, 2023, there was no evidence to allow a contrary finding. T4-1-153.

The harm cannot be merely past or "potential future" harm, but *significant, not merely incidental, long-term emotional harm or significant physical harm* that the children have suffered or would suffer from the absence of continuing the relationship with Appellee-Nonparent. The quality of the evidence must be consistent with the juvenile code that requires emotional abuse be proven and is not merely the "reasoned" personal findings of the trial court based on anecdotal evidence. O.C.GA. §15-11-2(30):

> Emotional abuse means acts or omissions by a person responsible for the care of a child that cause any mental injury to such child's intellectual or psychological capacity as evidenced by an observable and significant impairment in such child's ability to function within a child's normal range of performance and behavior or that create a substantial risk of impairment, if the impairment or substantial risk of impairment is diagnosed and confirmed by a licensed mental health professional or physician qualified to render such diagnosis.

The record below is **devoid** of *any evidence* of "any mental injury to [the children's] intellectual or psychological capacity as evidenced by an observable and significant impairment in such child's ability to function within a child's normal range of performance and behavior or that create a substantial risk of impairment[.]"

The trial court erred by finding harm, awarding equitable caregiver status, and not directing a verdict in favor of Appellant-Parent. O.C.GA. §15-11-2(30).

"[T]he record must contain evidence of present dependency, not merely past or potential future dependency." *In re L.K.,* 353 Ga. App. 855, 862, 840 S.E.2d 76, 81(2020). For O.C.G.A. §19-7-3.1 to be constitutional, the long-term emotional harm must be significant and present, not merely past or potential future harm, for which continuing the relationship with Appellee-Nonparent would alleviate such harm otherwise any nanny with more contact with a child than the Appellee-Nonparent had here or another person with frequent contact with a child from birth to 16 months of age could qualify as an equitable caregiver.

The quality of the evidence necessary to find "significant, long-term emotional harm" to justify moving to step-two, the best interests' analysis, must follow O.C.GA. §15-11-2(30) lest "significant, long-term emotional harm" can be anything which is juxtaposed against the evidence required in Georgia's juvenile courts or in any tort action seeking damages including for emotional distress.[8]

O.C.G.A. §19-7-3.1 is unconstitutional. *Dias v. Boone,* also Brief as restated

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[8] Emotional distress suffered must be severe and the lack of supporting evidence when there was a failure to seek medical or psychiatric or psychological treatment makes the evidence insufficient as a matter of law. *Doe v. Roe,* 362 Ga. App. 23, 864 S.E.2d 206, 215 (2021)(trial court erred denying summary judgment motion on intentional infliction of emotional distress claim)(citation omitted).

and incorporated by reference in footnote 1.

O.C.G.A. §19-7-3.1 did not put any person in a comparable or equal position of two parents litigating custody and/or parenting time. Although inapplicable here, of course, to illustrate the difference, O.C.G.A. §19-9-3(a)(5) and (6) allow courts to consider the selection by the child who is 11 to 13 years of age or 14 and older of which parent would be the "primary custodial parent" and, presumably, have more parenting time. By contrast, O.C.G.A. §19-7-3.1 does not provide consideration of any preferences by a child of any age.

When the dispute is between a parent and a nonparent, the court must not consider the wishes of the child (whether the child's wishes are the same or are different than the parent(s)) because such wishes would be irrelevant to the sole issue; i.e., whether the absence of contact between a person who claims equitable caregiver status and a child would cause the child to suffer significant, long-term emotional harm. It would be error to permit a guardian ad litem to report on the preferences of a child or for the court to consider such preferences by whatever means the person who claims equitable caregiver status might try to convey such information. O.C.G.A. §§24–4–401, 24-4-402, and 24-4-403.

Also, how the person who claims equitable caregiver status feels, such as "missing the child" or "being sad," must be excluded, because trial courts must not allow or consider any evidence not probative of the only issue; i.e., will *this* child

suffer significant, long-term emotional harm without contact forced by court order. This Court must tell trial courts NOT to consider evidence or the perspective of the impact on the person who claims equitable caregiver status from not having contact with the child. "OCGA §24-4-401 defines relevant evidence as 'evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.'" *McIver v. State,* 314 Ga. 109, 144-145, 875 S.E.2d 810, 839 (2022). Whether *the* child before the trial court will suffer significant, long-term emotional harm without forced by court order contact is the only fact of consequence to determining whether to award equitable caregiver status. "OCGA §24-4-402 ('Rule 402'), [ ] provides, *without exception*, that '[e]vidence which is not relevant shall not be admissible.'" 314 Ga. at 145 (emphasis added; citations omitted).

By establishing evidentiary standards, this Court can protect parents and their children from the emotionally and financially devastating costs of litigating or, minimally, litigating all issues without persons who claim equitable caregiver status first having satisfied certain threshold issues and proof such as, for illustration, is required in malpractice actions. *See* O.C.GA. §9-11-9.1.[9]

[9] The Legislature recognized the disparity in financial resources common between grandparents and parents. *See* O.C.GA. §19-7-3(e). No such provision was made in O.C.GA. §19-7-3.1. The volume of equitable caregiver litigation in the trial courts and in the appellate courts reflects only a fraction of the disputes between parents

Without such guidance, restrictions, and definitions from the Legislature or from this Court, fit parents endure emotional, financial, and time-consuming burdens and devastating upheaval to their families. Without this Court's guidance, restrictions, and definitions, trial courts are empowered to substitute the judgment of fit parents with the judgment of the trial courts merely by finding "harm" to the child regardless of how thin the evidence (or, as here, in the absence of any competent evidence), often based on generalized views held by the particular trial court based on other children or the trial court's own children and not the child before the court, together with the lay opinion testimony of those persons claiming equitable caregiver status, which evidence would be impermissible in other areas of the law.[10]

Parents, nonparents, and trial courts must know in advance what "harm" must

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and those persons who claim equitable caregiver status because only those who can afford to litigate go to trial and/or appeal. This Court's opinion will save parents and nonparents enormous sums of money better spent on children, few of whom, if any, are ***actually*** suffering significant, long-term emotional harm as trial courts often find using their enormous discretion and latitude with little guidance and few restrictions.

[10] An unsupported lay opinion merely reciting the "magic" words about the child suffering harm or evidence about the relationship the child may have from which a trial judge guesses, speculates, or makes assumptions is far from the clear and convincing evidence necessary to infringe on the rights of a parent. O.C.G.A. §§24-7-701 and 24-7-702; *Lightfoot v. Hollins*, 308 Ga. App. 538, 541, 707 S.E.2d 491, 493 (2011) citing *Brooks v. Parkerson*, 265 Ga. 189, 194, 454 S.E.2d 769 (1995); *Hewlett v. Hewlett*, 349 Ga. App. 267 (2019)(the evidence was insufficient to explain the extent to which the child's situation is causing specific harms to the child or to support the trial court's conclusion the child will suffer serious physical, mental, emotional, or moral harm requiring reversal) and concurring fully and specially opinion by Chief Judge Dillard, *id*. at 272-274. *See also Dias v. Boone,*

be shown under O.C.G.A. §19-7-3.1 to meet the compelling governmental interest necessary to allow infringement of the rights of parents; i.e., significant, long-term emotional harm and not merely a child missing a nonparent, being sad, or adjusting to being with a nonparent less or not at all. None of these is sufficient, yet routinely trial courts find "harm" justifying equitable caregiver status on nothing more. *See also Wilkinson v. Richello,* 367 Ga. App. 750, 751, 888 S.E.2d 336, 338 (2023), EN7 (O.C.G.A. §19-7-1(b.1) citations omitted but include *Strickland v. Strickland* and *Clark v. Wade*).

3. Trial Courts Must Compare The Significant, Long-Term Emotional Harm Alleviated By The Equitable Caregiver Order With The Harm It May Cause

Trial courts must assess, evaluate, and compare the significant, long-term emotional harm to a child purportedly being alleviated by equitable caregiver status with the harm that may be caused by such an award including, but not limited to, the harm due to the undermining of the parent-child relationship or to the existence of opposition by parents coupled with animosity between the parents and the nonparents being such that "best interests" of a child could not be served.

Trial courts also must consider how an award sets up the children to being hurt by the nonparents failing to exercise the visitation awarded or otherwise abandoning the very children who are to be protected and imposing a legal duty to exercise the visitation awarded.

When an equitable caregiver order is entered, children do not know who is in charge and that uncertainty undermines parental authority, harms children, and damages the sacred and constitutionally protected parent-child relationship. The financial impact of having to litigate over equitable caregiver status times and terms, also harms children. Parents, who have a fundamental constitutional right to decide with whom their children associate, are forced to defend their decisions at great financial cost and by time, energy, emotion, and distraction from family and from work and where trial judges have enormous discretion and the statutory authority provided is replete with ambiguities, flaws, and inconsistencies, not to mention violations of the fundamental rights of parents. Does this help children? No.

Also, unless nonparents are required by court order to exercise the visitation awarded and not to move away, not to take long vacations or cruises, and not otherwise to disappoint the children for whom the court is infringing on the rights of parents to decide, then the children are vulnerable to greater hurt if the nonparents opt not to exercise such court ordered visitation for any reason. O.C.G.A. §19-7-2.

There is no corresponding legal duty of nonparents to children making court ordered primary physical custody and visitation a risk of harm to the very children the state claims to be protecting. At a minimum, before awarding such physical custody or visitation, courts must be required to make a finding upon clear and convincing evidence that the nonparents, if awarded visitation, will not abandon the

children, will exercise what is awarded, and will not counter and undermine the parents on nutrition, access to media content parents decided their children should see, and character and behavior lessons.

Should not the Legislature and this Court consider the unintended consequences of providing this statutory basis for such intrusions into families? ParentsUSA calls upon this Honorable Court for the seminal opinion on the legal issues that confront parents, nonparents, trial courts, and the appellate courts, currently without sufficient guidance from the Legislature and without even one opinion from an appellate court on most of the issues presented.[11]

4. Only "Narrowly Tailored" Contact, and Not More, Is Constitutionally Permitted

Even if the significant, long-term emotional harm purportedly being alleviated is greater than the harm caused to a child by an award of equitable caregiver status and physical custody or visitation, such a finding does not allow the trial court to award visitation resembling a divorced parent's parenting time with weekends, weeks in the summer, and holidays, including holidays traditionally reserved for the parent's family, as the trial court did here. The "best interests of the child" is the incorrect standard when infringing on any constitutional right. Constitutional

[11] See also the Briefs restated and incorporated by reference in FN1, hereinabove, particularly the applicability of equitable caregiver status being awarded to the law of unintended consequences.

considerations are not raised when fashioning a parenting plan based on "best interests," but constitutional issues are raised when a nonparent takes from a parent.

Equitable Caregiver Status and awards of visitation can only be such "narrowly tailored" contact to serve the compelling state interest in protecting children from harm thus contact must be in increments, such as phone calls, Zoom calls, a few hours monthly or less often, only as necessary, shown by clear and convincing evidence, to alleviate significant, long-term emotional harm. *McClendon v. Long,* 22 F.4th 1330, 1337-1339 (11th Cir. 2022)(based on *McClendon,* the burden of proof to show the award was narrowly tailored always would be on the grandparents). See also "best interests" analysis; O.C.GA. §15-11-26(1) through (20); O.C.GA. §19-9-3(a)(3)(A) through (Q). Compare O.C.GA. §19-7-3.1 and appellate decisions that provide no guidance (or insufficient or incorrect standards). The factors set forth in O.C.GA. §15-11-26(1) through (20) and O.C.GA. §19-9-3(a)(3)(A) through (Q) *should not be utilized* when considering equitable caregiver status awards of visitation, as the trial court erroneously did here.

The state's legitimate compelling interest ends when the equitable caregiver status award of visitation alleviates the significant, long-term emotional harm to the child (found by clear and convincing evidence). Thus, with the compelled phone call, a few hours monthly for a meal and conversation, whenever the balance of infringement and alleviation of harm to the child is met, then the State no longer can

justify taking from or infringing upon the parents. O.C.G.A. §19-7-3.1 fails to protect the fundamental constitutional rights of parents, in part, because it does not require the comparison or balancing of the harm being alleviated by any equitable caregiver status awards of visitation and the harm such awards would cause a child; i.e, not balancing or analyzing against the harm the child suffers by such impositions such as missing holidays and other time with a parent and activities not associated with school.

O.C.G.A. §19-7-3.1 also is unconstitutional under the authorities cited, *infra,* because the visitation ordered is not required to be *the least amount of contact necessary to prevent significant, long-term emotional harm to a child*. To pass constitutional scrutiny, O.C.G.A. §19-7-3.1 must not allow trial courts to award physical custody or visitation that includes overnights, weekends, or family holidays, phone contact, and other terms unless necessary to alleviate the significant, long-term emotional harm found; i.e., by the least intrusive means, so that nonparents are not treated similarly to the "noncustodial" parent in a divorce action.[12] Under the authorities cited, the trial courts must be required to explain the

[12] *Old South Duck Tours v. Mayor & Alderman,* 272 Ga. 869, 871-872 (2000) ("when a fundamental right is infringed by government action, substantive due process requires that the infringement be narrowly tailored to serve a compelling state interest"); *Patten v. Ardis,* 304 Ga. 140 (2018)(parent's rights are fundamental rights).

basis for **each** incremental taking from the parent or parents.

Although not for consideration due to the tender age of this child, this Court must require trial courts to vacate equitable caregiver status awards whenever the evidence shows the child is of sufficient age and maturity to communicate with the nonparent and only require that a child visit with a nonparent at times upon which they agree, as approved for parents in *Dallow v. Dallow*, 299 Ga. 762, 776-777 791 S.E.2d 20, 31 (2016).

5. Appellant-Parent Is Entitled to Equal Protection Under the Law

O.C.G.A. §19-7-3.1(h) prevents original actions when the child lives with both parents.[13] The Legislature rightfully and understandably prevented nonparents from intruding on the intact family. Appellant-Parent is entitled to equal protection under the law. Ga. Const., Art. I, Sec. I, Par. II. The fundamental right of parents being implicated, strict scrutiny applies. O.C.G.A. §20-2-786(b);[14] *Nicely v. State,*

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[13] "Judges are neither seers nor black-robed philosophers. We interpret the law to the best of our ability based on the relevant language, context, and any applicable canons of statutory construction. Intentions detached from a textual foundation are illusory and a deeply troubling source of fascination for far too many jurists – present company is, of course, excluded." *Green v. Pinnix,* 368 Ga. App. 730, 735, 890 S.E.2d 397, 401 (2023), Dillard, Presiding Judge, concurring fully and specially, Chief Judge Rickman joining (citations omitted). Even so, inconsistencies within O.C.G.A. §19-7-3.1 and conflicts within O.C.G.A. §19-7-3.1, O.C.G.A. §19-9-3, O.C.GA. §15-11-26, and O.C.GA. §15-11-2(30) must be resolved so that parents and nonparents, the attorneys who advise them, and the trial courts who affect them know the law, and the law is applied consistently statewide.

[14] "[I]t is a fundamental right of parents to direct the upbringing and education of

291 Ga. 788, 792, 733 S.E. 2d 715, 719 (2012)("Differential treatment that is based on an inherently suspect classification or that interferes with the exercise of a fundamental right is subject to strict scrutiny, and such treatment ordinarily can be justified only when it is sufficiently related to a compelling state interest." Citations omitted). The state lacks a compelling interest in treating parents residing together with a child differently than single parents.

6. Attorney's Fees, Expenses, and Child Support Should Be Considered

The trial court should be directed to consider awarding Appellant-Parent attorney's fees and expenses and requiring reimbursement of child support she paid.

PART SEVEN: CONCLUSION

This Court should apply O.C.G.A. §19-7-3.1 as advanced above, protecting parents and children from the significant emotional, financial, and time-consuming struggles with nonparents who seek to force themselves in the lives of children who have a fit parent, which has been too easy for nonparents to pursue and achieve. Furthermore, this Court should reverse and remand, instructing the trial court to grant the relief requested herein by the Appellant-Parent and to provide any other relief that is just and equitable.

This submission does not exceed the word count limit imposed by Rule 24.

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their minor children." O.C.G.A. §20-2-786(b).

Respectfully submitted this 10th day of March 2025.

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CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the within and foregoing *BRIEF OF APPELLANT-PARENT, Brief of Appellant,* Case No. S24A0887, *Brief of Amicus Curiae National Association of Parents, Inc.*, Case No. S24A0887, *Amended Supplemental Brief of Amicus Curiae National Association of Parents, Inc.,* Case No. S24A0887, and *Second Supplemental Brief of Amicus Curiae National Association of Parents, Inc.*, Case No. S24A0887 on the Appellee-Nonparent Amber Lair by e-service pursuant to a prior agreement I certify has been reached to allow documents in a .pdf format sent via email to suffice for service:

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