

No. 18-13592

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IN THE  
**United States Court of Appeals**  
FOR THE ELEVENTH CIRCUIT

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DREW ADAMS,

*Plaintiff-Appellee,*

v.

SCHOOL BOARD OF ST. JOHN'S COUNTY, FLORIDA,

*Defendant-Appellant.*

ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA, JACKSONVILLE DIVISION  
DISTRICT COURT CASE NO. 3:17-cv-00739-TJC-JBT

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**MOTION FOR LEAVE TO FILE AN EN BANC BRIEF ON BEHALF OF *AMICI CURIAE*  
PFLAG, INC., TRANS YOUTH EQUALITY FOUNDATION, GENDER SPECTRUM,  
GENDER DIVERSITY, AND JACKSONVILLE AREA SEXUAL MINORITY YOUTH  
NETWORK, INC. IN SUPPORT OF APPELLEE AND AFFIRMANCE**

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***AMICI CURIAE'S CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT***

In compliance with Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rules 26.1-1 through 26.1-3 and 28-1(b), *amici curiae* PFLAG, Inc., Trans Youth Equality Foundation, Gender Diversity, Gender Spectrum, and Jacksonville Area Sexual Minority Youth Network, Inc. make the following disclosures:

*Amici curiae* certify that, to the best of their knowledge, the Certificates of Interested Persons set forth in the Petition for Panel Rehearing and Rehearing En Banc of Appellant The School Board of St. Johns County, Florida (Aug. 4, 2021) and the En Banc Brief of Amici Curiae Medical and Mental Health Professionals Supporting Defendant-Appellant School Board of St. Johns County, Florida (Nov. 8, 2021) pursuant to Eleventh Circuit Rule 26.1-2 through 26.1-3 are complete, subject to the following amendments:

**Added:**

1. Mott-Smith, Audrey J. – Counsel for *Amici Curiae*

**Deleted:**

2. Binning, Sarah R. – Counsel for *Amici Curiae*
3. Dwyer, John C. – Counsel for *Amici Curiae*
4. Harrington, Emily – Counsel for *Amici Curiae*

*Amici curiae* PFLAG, Inc., Trans Youth Equality Foundation, Gender Diversity, Gender Spectrum, and Jacksonville Area Sexual Minority Youth

Network, Inc. are non-profit member organizations with no parent corporations and no publicly held corporations own 10 percent or more of their respective stock.

*Amici* will enter this information into the web-based CIP contemporaneous with the filing of this Certificate of Interested Persons and Corporate Disclosure Statement.

Respectfully submitted on November 24, 2021.

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PFLAG, Inc., Trans Youth Equity Foundation, Gender Diversity, Gender Spectrum, and Jackson Area Sexual Minority Youth Network, Inc. (“*Amici*”) move this Court for leave to file the attached proposed en banc brief of *amici curiae* in support of Appellee, Drew Adams, pursuant to Eleventh Circuit Rule 35-8.

### **INTEREST OF *AMICI CURIAE***

*Amici* are five organizations that combat injustice against transgender youth and work with families to advocate for open, supportive schools where transgender youth can lead authentic lives without facing discrimination.

**PFLAG, Inc.** (“PFLAG”) is the first and largest organization for lesbian, gay, bisexual, transgender, and queer (LGBTQ+) people, their parents and families, and allies. With nearly 400 chapters and 250,000 members and supporters crossing multiple generations of families in major urban centers, small cities, and rural areas across America, PFLAG is committed to creating a world where diversity is celebrated and all people are respected, valued, and affirmed.

**Trans Youth Equality Foundation** (“TYEF”) is a national non-profit organization that was founded by the mother of a transgender child and provides education, advocacy, and support for transgender youth and their families. TYEF’s mission is to share information about the unique needs of this community, partnering with families, educators, and service providers to help foster a healthy, caring, and safe environment for all transgender children.

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**Jacksonville Area Sexual Minority Youth Network, Inc.** (“JASMYN”) is a non-profit organization whose mission is to support and empower young people by creating a safe space for LGBTQ youth in Northeast Florida. JASMYN provides programs and services for youth, including on-site health clinics, listening forums, and development opportunities that promote equality and human rights. By building partnerships with other Jacksonville organizations that advance human rights for the LGBTQ community, JASMYN

works to help young people become more confident in their identities and futures.

Given their missions, *amici* have a strong interest in ensuring the right of transgender children to be treated equally in all respects at school, including use of restrooms. These organizations, and the parents of transgender children with whom they work, are uniquely positioned to address how restrictions on restroom use can have profound, deleterious effects on transgender children, leading to social stigma, discrimination, bullying, and depression. They can also speak to the positive effects of supportive schools that allow transgender children to be their true selves and flourish and grow.

#### **DESIRABILITY AND RELEVANCE OF THE PROPOSED BRIEF**

*Amici's* brief is desirable and relevant to the disposition of this case because, based on their specialized knowledge and experience working with transgender youth and their families, *amici* can share a unique perspective on the harm caused to transgender students when they are prevented from using restrooms consistent with their gender identity and denied the opportunity to participate as full and equal members of their school communities.

#### **CONCLUSION**

*Amici* have a concrete interest in the outcome of this case and respectfully seek leave of Court to file the attached proposed en banc brief of *amici curiae*.

Respectfully submitted on November 24, 2021.

/s/ Maureen P. Alger

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**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT,  
TYPEFACE REQUIREMENTS, AND TYPE-STYLE REQUIREMENTS**

1. This motion complies with the type-volume limitation as provided in Federal Rule of Appellate Procedure 27(d)(2) because it contains 3,718 words.

2. This motion complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5), and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word Professional Plus 2019 in 14-point Times New Roman font.

3. As permitted by Federal Rule of Appellate Procedure 32(g)(1), the undersigned has relied on the word count feature of this word processing system in preparing this certificate.

Respectfully submitted on November 24, 2021.

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## CERTIFICATE OF SERVICE & FILING

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Eleventh Circuit by using the appellate CM/ECF system on November 24, 2021.

Additionally, I certify that I filed the original plus three copies of the foregoing with the Clerk of the Court via Federal Express, addressed as follows:

Clerk of the Court  
U.S. Court of Appeals for the 11th Circuit  
56 Forsyth St. N.W.  
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Service on all counsel will be made through the CM/ECF system.

Respectfully submitted on November 24, 2021.

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FOUNDATION, GENDER SPECTRUM, GENDER DIVERSITY, AND JACKSONVILLE  
AREA SEXUAL MINORITY YOUTH NETWORK, INC. IN SUPPORT OF APPELLEE AND  
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*Amici curiae* certify that, to the best of their knowledge, the Certificates of Interested Persons set forth in the Petition for Panel Rehearing and Rehearing En Banc of Appellant The School Board of St. Johns County, Florida (Aug. 4, 2021) and the En Banc Brief of Amici Curiae Medical and Mental Health Professionals Supporting Defendant-Appellant School Board of St. Johns County, Florida (Nov. 8, 2021) pursuant to Eleventh Circuit Rule 26.1-2 through 26.1-3 are complete, subject to the following amendments:

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## **INTRODUCTION**

Like all parents, Paige Gardner wants what is best for her son. Since age two, Paige's son M expressed that he was a boy, but was not accepted by his school or many of his peers. M's school refused to allow him to use the boys' restroom, which made M feel isolated and deepened his sense that he did not belong. Desperately unhappy, M developed a severe eating disorder that nearly caused permanent heart damage. Worried about the damaging effects of keeping M in a school environment where he was not supported and did not feel like he could be his true self, Paige helped M move to a new school at the beginning of eighth grade, where M would be treated like a boy in all respects. Since then, M has blossomed, developing pride in who he is and becoming a leader amongst his peers.

Jennifer and Bill Zins' son, D, began living as a boy in second grade and quickly went from being despondent to smiling all the time. However, when D was prohibited from using either the boys' or girls' restrooms and was singled out to use limited non-gendered restrooms instead, D once again became anxious and unhappy and his health and academic performance suffered. Only after Jennifer and Bill initiated litigation against the school board was D allowed to use the boys' facilities. Following that change, D's confidence soared, his academic performance dramatically improved, and D was finally able to enjoy being a teenager.

The challenges faced by M and D are, unfortunately, not isolated or rare. Every day, thousands of transgender youth across America face discrimination,

hostility, and even violence. Some of these families have chosen to share their very personal stories here to help the Court understand the children affected by the policies at issue and the harsh realities they face every single day.

**INTEREST OF AMICI CURIAE**<sup>1</sup>

*Amici* are five organizations that combat injustice against transgender students and work with families to advocate for open, supportive schools where transgender youth can lead authentic lives without facing discrimination.

**PFLAG, Inc.** (“PFLAG”) is the first and largest organization for lesbian, gay, bisexual, transgender, and queer (LGBTQ+) people, their parents and families, and allies. With nearly 400 chapters and 250,000 members and supporters crossing multiple generations of families in major urban centers, small cities, and rural areas across America, PFLAG is committed to creating a world where diversity is celebrated and all people are respected, valued, and affirmed.

**Trans Youth Equality Foundation** (“TYEF”) is a national non-profit organization that was founded by the mother of a transgender child and provides education, advocacy, and support for transgender youth and their families. TYEF’s mission is to share information about the unique needs of this community, partnering

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<sup>1</sup> No party’s counsel authored this brief in whole or in part or contributed money that was intended to fund preparing or submitting this brief, and no one other than *amici*, their members, or their counsel contributed money intended to fund preparing or submitting this brief.

with families, educators, and service providers to help foster a healthy, caring, and safe environment for all transgender children.

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and human rights. By building partnerships with other Jacksonville organizations that advance human rights for the LGBTQ community, JASMYN works to help young people become more confident in their identities and futures.

Given their missions, *amici* have a strong interest in ensuring the right of transgender children to be treated equally in all respects at school, including use of restrooms. These organizations, and the parents of transgender children with whom they work, are uniquely positioned to address how restrictions on restroom use can have profound, deleterious effects on transgender children, leading to social stigma, discrimination, bullying, and depression. They can also speak to the positive effects of supportive schools that allow transgender children to be their true selves.

### **STATEMENT OF THE ISSUES**

*Amici* adopt the issues as stated by the Plaintiff-Appellee.

### **SUMMARY OF ARGUMENT**

*Amici* respectfully request that this Court affirm the district court's decision finding that The School Board of St. Johns County, Florida violated the Equal Protection Clause and Title IX by excluding Drew Adams from the boys' restroom and granting Mr. Adams' request for an injunction and compensatory damages. *Amici* offer the unique perspective of parents of transgender children who can explain the negative impact of discriminatory policies on transgender children in school. Through personal stories, *amici* seek to provide a broader view of

transgender youth, and help the Court understand the critical importance of letting transgender children be themselves in all aspects of their lives, including at school. These stories illustrate how preventing transgender students from using the same restrooms as other students, consistent with their gender identity, denies them the opportunity to participate as full and equal members of the school community.

### **ARGUMENT**

#### **I. TREATING TRANSGENDER STUDENTS IN A MANNER INCONSISTENT WITH THEIR GENDER IDENTITY CONSTITUTES DISCRIMINATION AND CAUSES SERIOUS HARM.**

Gender identity is a person’s inner sense of belonging to a particular gender. It is an innate, core component of human identity, with a strong biological basis.<sup>2</sup> Children typically become aware of, and often articulate, their gender identity between ages two and four.<sup>3</sup>

Separating children from their peers based on an innate characteristic “generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.” *Brown v. Bd. of Educ.*, 347 U.S. 483, 494 (1954). “The impact is greater when it has the sanction of the law; for the policy . . . is usually interpreted as denoting the inferiority of the

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<sup>2</sup> Blaise Vanderhorst, *Whither Lies the Self: Intersex and Transgender Individuals and a Proposal for Brain-Based Legal Sex*, 9 Harvard L. & Pol’y Rev. 241, 259-60 (2015) (reviewing scientific research); Milton Diamond, *Transsexuality among Twins: Identity Concordance, Transition, Rearing, and Orientation*, 14 Int’l J. of Transgenderism 24 (2013).

<sup>3</sup> Am. Psychiatric Ass’n, *Diagnostic & Statistical Manual of Mental Disorders* 451 (5th ed. 2013).

[separated] group. A sense of inferiority affects the motivation of a child to learn.”

*Id.* (citation and quotation marks omitted). Not surprisingly, when transgender students are treated differently or segregated from their same-gender peers, the impact can be devastating. *See, e.g., Doe v. Boyertown Area Sch. Dist.*, 897 F.3d 518, 529 (3d Cir. 2018), *cert. denied*, 139 S. Ct. 2636 (2019) (“When transgender students face discrimination in schools, the risk to their wellbeing cannot be overstated—indeed, it can be life threatening.”); *Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ.*, 858 F.3d 1034, 1045 (7th Cir. 2017) (school district stigmatized student “when it dismissed him to a separate bathroom” because he was transgender), *cert. dismissed*, 138 S. Ct. 1260 (2018); *G.G. v. Gloucester Cty. Sch. Bd.*, 822 F.3d 709, 728 (4th Cir. 2016) (Davis, J., concurring) (forcing student to use separate restroom “accentuat[es] his ‘otherness,’ undermin[es] his identity formation, and imped[es] his medically necessary social transition process. The shame of being singled out and stigmatized . . . every time he needs to use the restroom is a devastating blow . . . and places him at extreme risk for immediate and long-term psychological harm.”), *vacated on other grounds*, 137 S. Ct. 1239 (2017); *Grimm v. Gloucester Cty. Sch. Bd.*, 972 F.3d 586 (4th Cir. 2020) (“The stigma of being forced to use a separate restroom . . . ‘invites more scrutiny and attention’ from other students, ‘very publicly branding all transgender students with a scarlet T’”) (citations omitted), *rehearing en banc denied*, 976 F.3d 399 (2020), *cert. denied*, 141 S. Ct. 2878 (2021).

Medical research confirms what these courts have found. According to established medical consensus, the only effective treatment for gender dysphoria<sup>4</sup> is to enable a transgender person to live fully in accordance with the person's gender identity. Social transition, the only treatment available to children with gender dysphoria prior to puberty, may include adopting a new haircut, new clothes, a new name and different pronouns, and interacting with peers and one's environment in a manner that better matches the child's gender identity. A critical part of any such transition is allowing the child to use the same restrooms as other students, consistent with their gender identity. As illustrated by the family stories below, social transition significantly eases the symptoms of gender dysphoria, prevents severe harm, and allows transgender children to thrive.<sup>5</sup> Isolating transgender children from the restrooms used by other students, consistent with their gender identity, constitutes discrimination and causes harm.<sup>6</sup> The harm is long lasting and can have

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<sup>4</sup> Gender dysphoria is the scientific term for a "marked incongruence" between one's gender identity and assigned sex and is accompanied by clinically significant distress unless treated. Am. Psychiatric Ass'n, *Diagnostic & Statistical Manual of Mental Disorders* 451 (5th ed. 2013).

<sup>5</sup> World Prof'l Ass'n for Transgender Health, *Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People* (2012), <https://goo.gl/WiHTmz>; Bethany Gibson & Anita J. Catlin, *Care of the Child with the Desire to Change Gender – Part 1*, 36 *Pediatric Nursing* 53, 55 (2010).

<sup>6</sup> LGBTQ youth who experience victimization because of their gender expression are twice as likely to not pursue a secondary education. GLSEN, *The 2017 National School Climate Survey: The experiences of lesbian, gay, bisexual, transgender, and queer youth in our nation's schools*, <https://www.glsen.org/article/2017-national-school-climate-survey-1>; Kosciw, J. G., Greytak, E. A., Zongrone, A. D., Clark, C. M., & Truong, N. L. (2018).

a profound negative impact on a child's life.<sup>7</sup> Subjecting transgender youth to this harm serves no legitimate governmental interest and cannot survive any level of Equal Protection review. *See Bd. of Educ. of the Highland Local Sch. Dist. v. U.S. Dep't of Educ.*, 208 F. Supp. 3d 850, 877 (S.D. Ohio 2016), *stay pending appeal denied*, *Dodds v. U.S. Dep't of Educ.*, 845 F.3d 217 (6th Cir. 2016).

## **II. THE EXPERIENCES OF PARENTS RAISING TRANSGENDER CHILDREN DEMONSTRATE THAT TRANSGENDER STUDENTS FACE SEVERE HARM WHEN THEIR GENDER IDENTITY IS NOT AFFIRMED.**

Parents raising transgender children witness firsthand the harm caused by discriminatory school policies that isolate transgender youth and exclude them from the same facilities used by other students. Many parents of transgender students have watched their children experience severe distress when their schools implement policies that target them for different treatment. By contrast, when schools support transgender students and allow them to participate equally in the school community, parents see their children flourish. The stories of the families below demonstrate why schools must not be allowed to discriminate against transgender students.

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<sup>7</sup> Nearly two percent of high school students identify as transgender. In 2017, thirty-five percent of those transgender students had attempted suicide in the past year. Center for Disease Control and Prevention, *Transgender Identity and Experiences of Violence Victimization, Substance Use, Suicide Risk, and Sexual Risk Behaviors Among High School Students — 19 States and Large Urban School Districts*, [https://www.cdc.gov/mmwr/volumes/68/wr/mm6803a3.htm?s\\_cid=mm6803a3\\_w](https://www.cdc.gov/mmwr/volumes/68/wr/mm6803a3.htm?s_cid=mm6803a3_w); Johns M.M., Lowry R., Andrzejewski J., et al. (2017) (“Center for Disease Control and Prevention”).



**Paige Gardner – Birmingham, Alabama**

Paige Gardner lives in a suburb of Birmingham, Alabama with her two youngest sons, twins, aged eighteen. Her two older sons, who are thirty-one and twenty-six, live only a few minutes away and visit often. Paige’s ex-husband lives in Florida and remains a positive presence in all of his children’s lives. One of the twins, M, is transgender.



*M*

From a very young age, M showed signs that he identified as a boy. By age two, M refused to wear dresses, preferring to wear his older brothers’ hand-me-

downs instead. M liked to play with other boys and would tag along with his twin and his twin's friends. Paige recalls going to the grocery store when M was in elementary school where a clerk addressed M and said, "hey fella, how're you?" Paige looked to M, worried that this comment would sting, but "M just had a big grin on his face and beamed." At the time, Paige thought M was a tomboy.

As M got older, he started to face bullying and rejection. When he was only five or six, the group of neighborhood boys with whom he played started pushing him aside, telling him he wasn't a boy so he "couldn't go into the woods or go fishing with them anymore." M wrote one of the boys a letter, saying that "he didn't understand and his feelings were hurt. He explained that there was nothing different about him that should make it so he couldn't come along." But the letter did not change the boys' behavior. Increasingly, M became uncomfortable with the idea of making friends and, by the time he started middle school, he "felt unwanted, like a complete outsider."

M told Paige that he was transgender when he was in sixth grade. M wrote Paige an email, explaining that "he wasn't quite ready for a face-to-face conversation yet and email was the easiest way for him to fully express his thoughts." Always interested in caring for others even in the most trying moments for himself, M started his email by explaining what it means to be trans, provided helpful links with more information, and finished by saying that he wanted to give Paige time to adjust and learn before they talked. Paige and M spoke about a week

later, after which M separately shared this information with each of his brothers and his father. When his father, a retired athlete, wrote back to M that “he loved him beyond measure” and that M “just needed to tell him how he needed to be and where and when he needed to show up,” M came running into Paige’s room waving his phone shouting, “Mom, read this! Look at what Dad sent me!”

Although M was supported at home, he increasingly felt unsafe at school. M started to transition socially right after coming out to his family: he dressed like a boy, introduced himself at school by his correct name and pronouns, and began trying to use the bathroom that matched his gender identity. Some of M’s peers ignored M, saying they did not want to be seen with him, M’s friend’s parents would no longer allow M to come to their houses or stay the night, and teachers told M that his behavior was “sinful.” Although M’s counselor at school initially told M that he could come to her for support, school administrators told M that it was not okay for him to use the correct bathroom and he had to go back to using the girls’ bathroom instead. But M “was no longer seen as a girl . . . [he] was seen as an in between and wasn’t welcomed in either restroom.” M started to restrict his use of the restroom to the middle of class periods to avoid other students, missing instructional time as a result, and severely limited what he ate and drank during the school day to try to avoid using the restroom altogether.

Paige noticed that M seemed incredibly unhappy and withdrawn and was getting much thinner as the year progressed. When she was cleaning his room one

day, she found papers under his bed tracking the food and calories M had consumed each day. Paige recognized this as a sign of an eating disorder and was gravely concerned. Paige gently confronted M and learned that he was desperately trying to “prevent the shaping that comes with feminine puberty. He was trying to self-medicate to stop body fat from forming in unwanted places.” Paige took M to the doctor, where a cardiologist told them that M was only “weeks away from permanent heart damage.” M’s physicians explained that M had to either immediately confront his disease or face admission to the hospital and force-feeding. M tackled this new challenge with family support and began immediate treatment. During his initial recovery period, M was “so skinny and wasted that, as the nutritionists prescribed small increases in calories, he was restricted in how many steps he could take each day.” Gradually, M’s weight and energy improved but, to this day, M still struggles to eat in front of people.

During this period, M became actively engaged with the Gender Health Clinic at the University of Alabama, Birmingham and started participating in weekly after-school drop-in hours at the Magic City Acceptance Center (“MCAC”), one of the few LGTBQ-centered spaces in Northern Alabama. M believes that the support he received from MCAC helped save his life: “This process is so hard . . . it’s not a trend or a phase . . . this isn’t something any kid would choose.” MCAC introduced him to “so many more people who had experienced the same kind of discrimination and unhappiness,” and allowed him

to “meet adults who were fully transitioned and comfortable with themselves, which made [M] realize that it wasn’t hopeless and, with the right resources, [he] could be a happy transgender adult.”

Prior to MCAC, M had only known one other trans person—a friend the same age who killed himself in seventh grade. On the day this friend died, Paige went to M’s school ahead of a school-wide assembly to bring M home: “I didn’t want all eyes turning to M in that assembly as the last kid standing.”

M started at a school of fine arts at the beginning of his eighth-grade year. As he explained, for the first time “I felt like I didn’t have to hide any part of myself from my peers and my teachers.” Now a senior in high school, he’s made a name for himself as an artist and is considering a career in health care because he “would love to be like one of those people who made me feel safe about my transition.” He takes pride in knowing that other students—especially younger ones—come to him “for advice or support or friendship” because they know he “knows what they’re going through, and it’s so helpful to have other people like you in your corner.” “M’s empathy is probably one of his most remarkable strengths. . . . In spite of needing his own self-care, he’s always putting himself out there. He has an amazing capacity for love and generosity.”

Paige is extremely grateful for the “good fortune at many steps along the way” that ensured M had the supports he needed. “But that’s the exception here [in Alabama], not the rule . . . and it shouldn’t be that a child’s life is so dependent



on chance. When a child is supported, here’s the outcome: a well-adjusted, brilliant, successful, thriving kid. When you give them the tools they need, they thrive.”<sup>8</sup>

***Kimberly Shappley – Austin, Texas***

Kimberly Shappley lives in Austin, Texas. She moved to Austin from a small town outside of Houston, which she describes as “ultra-conservative.” Kimberly was born in Alabama and raised in Mississippi as an evangelical Christian. She is an ordained minister and a registered nurse. Kimberly has seven children ranging in age from nine to thirty-four. Her ten-year-old daughter, K, is transgender.



*Kimberly and K*

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<sup>8</sup> Source: November 11, 2021 Telephone Interview with Paige Gardner and M.

From the age of two, K showed signs that she identified as a girl. She turned her t-shirts into skirts and once tried to wear clothing from a neighbor's girl doll even though it was far too small for her.

At first, Kimberly tried to force K to act more "like a boy" and punished her, even spanking her, when K acted "like a girl." Kimberly recalls insisting to K, "No, you are not a girl. You are a boy." Kimberly demanded that K admit she was a boy, but K would cry, "Mommy, you know I'm a girl!" Looking back, Kimberly recognizes that K "always knew who she was." She regrets forcing K to live as a boy, but, at the time, did not know what else to do, especially given family and community pressure to "do something" about K's "girly" behavior.

When K was four, Kimberly began to see things differently. She noticed a dramatic, positive change when she allowed K to have "girl things." For example, at K's fourth birthday party, K's uncle gave her a wizard's robe, which she believed was a dress. K cried with joy, hugging the robe. Another day, Kimberly found K crying when she picked her up from daycare. K had not been invited to her friend's princess birthday party because her friend's dad said, "it was for girls, and K was a freak." Kimberly knew then she "had to do something different." She began researching gender identity and gender dysphoria in children.

Around this time, Kimberly remembers hearing K praying and asking "the Lord to take [K] home to be with Jesus and never come back." She recognized that K was depressed and "starting to just give up":

She wasn't a happy kid anymore. She was an angry, sad kid, crying for, trying to die, really. And talking about stuff around death . . . about animals that die and people that die, and it just became really weird . . . [unlike] conversations I'd had with my other kids . . . and this was not normal.

Kimberly conferred with K's pediatrician and other medical professionals. Based on their advice, she reluctantly began allowing K to wear girls' undergarments. The day K came home to find girls' undergarments in her drawer, "she fell to the floor" and started crying out of happiness. One day, however, K's daycare teacher discovered that she was wearing girls' undergarments and forced her to change. When Kimberly picked her up, K's teacher threw the girls' undergarments at Kimberly and told her "this will never happen again here." Kimberly never took K back to that daycare.

Kimberly then decided to let K socially transition. As a self-described conservative Christian, Kimberly did not come to the decision easily. She felt conflicted about "what the Lord want[ed] from" her. Over time, though, she realized that her problem was not with God, but with what other people might think of her. Kimberly now believes she is "a better Christian because of K." She explains:

Honestly, being the mom of a transgender kid has made me kinder, more compassionate, empathetic, loving, less judgmental. . . . I am a better human being for being K's mom. . . . I think that I am stronger in my faith because of K, and . . . I portray more of what He wants us to be. I still go to church . . . but I am a totally different person, and I think that the greatest gift that I've ever been given is just being K's mom.



It was only after K transitioned that Kimberly truly understood how unhappy K had been. Kimberly explains, “It wasn’t that my child was now happy, it’s that my kid was now joyful. . . . She was validated, and [there] was a huge difference in everything about her.”

When K entered kindergarten, the school district refused to allow her to use the girls’ restroom. She could use the gender-neutral restroom when she was in her classroom but was otherwise required to use the nurse’s restroom. Kimberly contested the policy and tried to educate school officials, but the situation deteriorated. Starting in first grade, K no longer had the option of using a gender-neutral restroom inside the classroom. Additionally, the school revised its policy so that K was not even allowed to use the nurse’s restroom. Instead, her only option was to use the staff restroom. Because of the stigma and isolation K felt being separated from her peers when using the staff restroom, K tried to avoid using the restroom altogether.

The exclusion had devastating and traumatic consequences. When K tried to use the girls’ restroom on occasion in first grade, she was physically removed by school staff, which was humiliating and painful. She also became the target of bullying. K stopped using the restroom during school hours, waiting until she could go home, causing long-term consequences for her bladder. Five years later, K’s bladder is still not functioning normally, and she remains under the care of an urologist.

Because of the school's treatment of K, in the spring of 2018, Kimberly made the difficult choice to uproot her family and move to Austin so K could attend school where she could use the girls' restroom. "The only safe places for trans kids are the most expensive, and it takes every bit of my income to keep [K] in a place with affirming schools where she is safe." Since starting at a supportive school, K has thrived, and has become an outspoken activist and advocate. In 2019, K and Kimberly were featured in an Emmy Award-winning mini-documentary, "Trans in America: Texas Strong," and K gave the acceptance speech alongside the director. More recently, K testified at a hearing in the Texas Senate about the potential harms of anti-trans legislation under consideration. Kimberly is extremely proud of K for both her personal strength and her advocacy: "She knows who she is and she's a leader. But no ten-year old should have to be as strong as she is."<sup>9</sup>

***Jennifer and Bill Zins – Deltona, Florida***

Jennifer and Bill Zins live in Deltona, Florida with their four children, ages fifteen to twenty-seven. Bill is a sales and marketing representative for a power tool company, and Jennifer is a homemaker. Their nineteen-year-old son, D, is transgender.

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<sup>9</sup> Sources: December 13, 2016, January 11, 2018, November 11, 2019, and November 11, 2021 Telephone interviews with and October 31, 2018 Email from Kimberly Shappley.



*From Left to Right: Bill, D, and Jennifer Zins*

From a very young age, D seemed unhappy and distressed. In particular, getting dressed was very stressful. When D was three, he had a “complete meltdown” over wearing a “flower girl” dress for his parents’ wedding. He was miserable the entire day in the outfit and unable to enjoy the festivities. As he reached school age, getting dressed became a huge struggle, often taking over an hour because he hated wearing “girls’ clothes.” He would kick and scream and tell his mother that he “would rather have cut his arms off” than wear girls’ clothes. D even said he “hated his life.” Jennifer recalls watching D in the car one day around this time and realizing that he was completely “checked out,” unable to enjoy being a child. She remembers worrying that D might even kill himself because he was so unhappy.

Starting in first grade, at D's request, Jennifer and Bill allowed D to shop for "boys' clothes" for school. D was so much happier once he was allowed to wear the clothes he wanted. He would get dressed for school quickly, without issues. Later that year, D insisted on cutting his hair short. When Jennifer and Bill explained that with his short hair and boys' clothes, he might be perceived as a boy, D responded that he was "okay" with that. Indeed, when strangers would refer to him as a boy, D would beam.

Throughout first grade, Jennifer and Bill thought D was going through a "phase or a tomboy thing." Then Jennifer saw the "I am Jazz" interview with Barbara Walters, where Jazz Jennings talked about her transition. Jennifer looked at Bill and said, "They're talking about our kid." After that, Jennifer sought out a therapist for D. The therapist advised letting D socially transition over the summer and enter second grade as a boy. Shortly after he began seeing the therapist, D asked his mother, "Do you love me?" Jennifer responded, "Of course I love you, you're my daughter, I am always going to love you." D responded, "I wish you would call me your son." That was the moment Jennifer began to really understand D's gender identity. Bill recalls that he was initially skeptical about D's transition but came "fully on board" as soon as he learned how high the suicide rate is for transgender children who do not have parental support.

Jennifer and Bill struggled with the reaction of their extended family and their community to D's transition. Some of their family did not support their decision to

raise D as a boy, and eventually they cut ties with certain family members who continued to refer to D by female gender pronouns and by his birth name. The pastor at Jennifer and Bill's church also disagreed with their decision to allow D to transition and forced them out of the church because he believed they were "living in sin."

D officially transitioned at the start of second grade. D's principal told Jennifer that for the first two weeks, D proudly walked around campus proclaiming, "I'm a boy!" D "came out of his shell" after his transition and began smiling all the time. Most of the teachers and staff at D's school were very supportive of D's transition, and his classmates were also initially supportive as well.

D's experience at school, however, soon became challenging, and he struggled with being singled out. He was not allowed to use the boys' restroom and, instead, was required to use the restroom in the nurse's clinic. It was inconvenient and isolating, and D became anxious and quiet. His mounting psychological distress over his isolation resulted in a medical condition called trichotillomania, which caused him to pull out his eyelashes. He began therapy and started antidepressants.

Middle school was also difficult for D. He was not allowed to change for gym in the boys' locker room and was forced to use the coach's office instead. D was also required to use a restroom in the front office instead of either the boys' or the girls' restroom. When D was in seventh grade, the school installed a "porta potty" close to D's classes for his use. This made D feel even more isolated from his peers

and disrespected by his school. In eighth grade, D's classes were too far from the porta potty to be practical, and he began restricting his water intake to avoid having to use the restroom altogether. He wound up with recurring kidney infections, which were particularly serious because D has only one functioning kidney. D also suffered from bullying during this period.

In high school, D was required to change in the media center for gym class. Unsurprisingly, this caused him to be frequently late for class. D was also only allowed to use the school's single-user restrooms. However, most of the single user restrooms were kept locked. D again limited his water intake to avoid using the restroom. These issues affected D's focus at school and his grades suffered. He almost failed his sophomore year and refused to discuss college or his future. D often came home from school agitated and upset and would lash out at his family or withdraw. Jennifer and Bill became seriously concerned about his well-being.

In January 2017, in the middle of D's sophomore year, Jennifer and Bill filed a lawsuit against the school district. As a result of a settlement in that suit, D was finally able to use the boys' facilities. D's confidence went "through the [] roof." As Bill explains, the heavy weight on D's shoulders "had been lifted." D's grades drastically improved; he was soon getting As and Bs and was on the honor roll. Where it had been a "constant battle" to get D to complete his homework, he started "taking initiative" and became "proactive." D was able to focus on his schoolwork and no longer had to worry about "all those other things that were really a struggle."



He enjoys music, reading, and sports, and is excitedly planning for college and his future.

Jennifer and Bill are extremely proud of what D has overcome to get to this point. Jennifer says D is her “hero” who has “one of the biggest hearts” and who “doesn’t even realize that he is changing the world” for the better.<sup>10</sup>

*Patti Rice – Homewood, Alabama*

For twenty-four years, Patti Rice lived in Homewood, Alabama where she raised two children, now twenty and twenty-two. Patti grew up in a close-knit Christian home and maintains strong ties to her family and Christian faith. Patti’s youngest child, D, is transgender.



*Patti and D*

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<sup>10</sup> Sources: November 24, 2018, December 11, 2018, and November 16, 2021 Telephone Interviews with Jennifer and Bill Zins.

From very early on, Patti recognized that D identified with and related strongly to men. He always wanted to hang out with other boys in the neighborhood and do “boy things.” In elementary school, all of his close friends were boys. D remembers “watching other kids at T-ball with their dads and thinking, ‘I want that.’” He always “knew there was something different” about him, but did not know how to put words to what it was.

While Patti did not initially realize that D was struggling with his gender identity, she knew that something weighed heavily on him. Around age two, D stopped looking people in the eye, including his parents which, at the time, Patti thought was a sign of disrespect. She did not realize that many transgender kids avoid eye contact because of their own discomfort with their bodies. At age four, D began repeatedly saying that he was a “bad person.” And at age seven, D told Patti that he “needed to go back to God.” Hearing her youngest child say these things broke her heart. Patti was determined to help D, and got a therapist for him but, despite her best efforts, D slipped into deep depression. He attempted suicide in the fifth grade.

Middle school brought D’s struggles with his gender identity to the forefront. His friends now only wanted to hang out with other boys, leaving D isolated and alone. D was bullied for his short hair and boyish look and, when puberty started, he felt betrayed by his body. In a last-ditch effort to embrace femininity, D



developed anorexia, believing that if he could just “conform to the ideal female body,” he “could become comfortable” being a girl.

Worried for her child’s well-being, Patti encouraged D in the few things that appeared to bring him joy. One particular bright spot was the arts. D loved singing, playing piano, studying dance, and participating in theater. He sang in the church choir, took voice and piano lessons, and was active in the Birmingham theater scene.

When it came time to decide where D should attend high school, Patti found a public magnet school for the arts, which was not as academically rigorous as others, but might offer a safer, more accepting environment: “having a child that is alive was more important” to Patti than having a child “who had opportunities to take a lot of great classes but ends up bullied and dead.” D excelled academically there and found some comfort in theater, but was aware of a transgender student who was not allowed to use the bathroom consistent with his gender identity, so still did not feel like he could be himself. His anorexia worsened, and he asked Patti if he could homeschool for tenth grade.

During his homeschool year, as Patti was driving D to sing at church one day, he broke down in the car. With tears streaming down his face, he told Patti, “I will never be a boy.” At that moment, Patti recalls “everything suddenly made sense”—his depression, his suicide attempt and eating disorder, the bullying—it all came into focus. Patti was steadfast in supporting D, immediately immersing herself in what it meant to be transgender and how to support her son.

D's older sister was also very supportive. D's father, however, now divorced from Patti, was unable to understand and support D. When D told him he was transgender, his father did not even look up. He did not accept his son's gender identity and ultimately would even undermine D's identity to other members of the family, saying that D was just "crazy." D's relationship with his father, which was already strained, did not improve.

During D's transition, D got mixed reactions. His extended family was accepting and supportive; they offered love and encouragement and have stayed close with him and Patti. The minister at D's church was also a confidant and ally. But the dance studio where D trained would not let him take classes as a male, and a different church where D took piano lessons would not let him use the men's bathroom.

For his final two years of high school, Patti was determined to find a school that would allow D to be his authentic self. Patti fortunately found a private school where D was accepted and flourished. The faculty and administration at his new school supported him and, before D even started, asked him which bathroom would be the right one for him to use. D is now in college, pursuing a degree in the theater arts and genuinely excited for the future. He has launched a non-profit dedicated to helping transgender youth.

Patti credits the love and support from her church, her family, and D's private school as being critical to D's survival. She is proud that D has become the

confident, positive, happy young man she knew he could be. “He’s very talented. But that’s not where my pride lies. He sees his life’s mission as using whatever platform he has to educate people about what it means to be trans, and to be the representation he didn’t have growing up.”<sup>11</sup>

### **CONCLUSION**

On behalf of parents of transgender children who want their children to be supported and treated equally, *amici* urge this Court to affirm the district court’s decision granting an injunction and compensatory damages to Mr. Adams.

Respectfully submitted on November 24, 2021.

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<sup>11</sup> Sources: November 12, 2021 Telephone Interview with Patti Rice and D.

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**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT,  
TYPEFACE REQUIREMENTS, AND TYPE-STYLE REQUIREMENTS**

1. This brief complies with the type-volume limitation as provided in Federal Rule of Appellate Procedure 32(a)(7)(B) and Federal Rule of Appellate Procedure 29(a)(5) and Eleventh Circuit Rule 29-3 because it contains 6,487 words, excluding the portions of the brief exempted by Federal Rule of Appellate Procedure 32(f). Microsoft Word Professional Plus 2019 was used to calculate the word count.

2. This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5), and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word Professional Plus 2019 in 14-point Times New Roman font.

3. As permitted by Federal Rule of Appellate Procedure 32(g)(1), the undersigned has relied on the word count feature of this word processing system in preparing this certificate.

Respectfully submitted on November 24, 2021.

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**CERTIFICATE OF SERVICE & FILING**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Eleventh Circuit by using the appellate CM/ECF system on November 24, 2021.

Additionally, I certify that I filed the original plus three copies of the foregoing with the Clerk of the Court via Federal Express, addressed as follows:

Clerk of the Court  
U.S. Court of Appeals for the 11th Circuit  
56 Forsyth St. N.W.  
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Service on all counsel will be made through the CM/ECF system.

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