

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

EDITH SCHLAIN WINDSOR, in her  
capacity as Executor of the estate of THEA  
CLARA SPYER,

Plaintiff,

v.

THE UNITED STATES OF AMERICA,

Defendant.

10 Civ. 8435 (BSJ) (JCF)  
ECF Case

**SUPPLEMENTAL EXPERT AFFIDAVIT OF MICHAEL LAMB, PH.D.**

I, Michael Lamb, Ph.D., hereby depose and say as follows:

1. I am Professor of Psychology in the Social Sciences and Head of the Division of Social and Developmental Psychology in the Faculty of Social, Human and Political Science at the University of Cambridge.

2. On May 19, 2011, I submitted my expert affidavit in this matter, which set forth my relevant background and experience, and attached my curriculum vitae and a list of my publications from the last 10 years, at Exhibit A.

3. That affidavit set forth the principal opinion that I am offering in this case: that children and adolescents raised by same-sex parents are as likely to be well-adjusted as children raised by heterosexual parents, including “biological” parents.

4. I have read the relevant portions of the Rule 56.1 statement and memorandum of law filed by the Bipartisan Legal Advisory Group of the House of Representatives (“BLAG”) in opposition to plaintiff’s motion for summary judgment. More specifically, various statements on pages 23 and 24 of BLAG’s memorandum suggest that the research on the psychological adjustment of children with gay and lesbian parents is not valid or reliable

because it has “serious flaws.” I submit this affidavit in order to respond to this statement, with which I strongly disagree.

**There is No Basis for Dismissal of the Studies Referenced in My Affidavit as “Flawed”.**

5. First, BLAG asserts that studies referenced in my affidavit “comparing gay or lesbian parents to heterosexual parents have serious flaws,” and as supposed support for this position, quote from three articles discussed at my deposition. (BLAG Opp. Br. at 23-24.)

6. This assertion is both misleading and false. When these quotations from other scholars’ articles were presented to me at my deposition in this case, I explained how they had been taken out of context and that the scientific research on gay parent families is robust, meets accepted rigorous standards for research in the field, and supports the central conclusion provided in my prior affidavit and reiterated here: that children with gay and lesbian parents are just as likely to be well-adjusted as those with heterosexual parents.

7. Specifically, in response to the first quotation from a report I had cited [“Studies of children raised by same-sex parents have almost exclusively focused on families headed by lesbian mothers rather than gay fathers” (BLAG Opp. Br. at 23)], I explained at my deposition:

[I]t’s a fact that there have been more studies that are focused on the adjustment of children raised by lesbians rather than by gay parents. It’s a fact that results of studies that are focused on the children in both of those contexts are similar to one another. And it’s a fact that in both contexts one finds that the adjustment of children is affected not by the sexual orientation or by the family structure but by the family process variables that we talked about earlier this morning.

(Dep. Tr. at 76:6-17.)<sup>1</sup> For example, Farr, Forsell and Patterson (2010) Parenting and child development in adoptive families: Does parental sexual orientation matter? *Applied*

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<sup>1</sup> There are fewer studies of children raised by gay fathers than lesbian mothers largely because there have been fewer gay men than lesbians raising children in their own households presumably because, among other things, it is easier for lesbians to bring biological children into their families. Indeed, only quite recently have significant numbers of gay men begun to do so, too.

*Developmental Science*, 14(3), 164-178 (referenced in my initial affidavit) studied a sample of children raised since infancy in families headed by gay male couples. The results were the same as in the lesbian family research—child outcomes did not vary depending on the parents’ sexual orientation.

8. In other words, there is sufficient, indeed overwhelming, evidence that the adjustment of children is not affected by their parents’ sexual orientation, and the fact that more studies have focused on children raised by lesbians, rather than by gay men, does nothing to undercut that conclusion.

9. In response to BLAG’s second quotation—“We still have relatively few studies of adolescent offspring of lesbian or gay parents however, and some have advised caution when generalizing the results of research conducted with young children to adolescents” (BLAG Opp. Br. at 23)—I explained at my deposition as follows:

There are fewer studies of adolescents than there are of younger children. I think that this statement here is part of a way of underscoring the importance of this research. And it is important research. But there are several other studies that have looked at adolescent offspring living with same-sex parents.

Q. Does the fact that there are, I think you said, fewer studies on adolescents counsel us to be cautious about drawing conclusions about adolescents who are raised by same-sex parents?

Well, I don’t think it does because the results of those fewer studies are consistent with the results of other research that looks at children’s adjustment and other research that looks at adolescents and the factors that are associated with their adjustment. Again, I think what’s important to underscore is how important it is to look at any set of findings in context. In that context, the fact that studies like this show that children being raised by same-sex parents are as likely to be well adjusted as children raised by -- sorry -- as adolescents raised by heterosexual parents and that when one looks at the correlates of better or worse adjustment, that it’s the same factors regardless of sexual orientation. It is the convergence between the findings and the broader body of literature that is really the key thing we want to look at.

(Dep. Tr. at 82:15-83:21.)

10. As I explained, although there is less research on adolescents than on younger children, there have been several studies involving adolescents and they have uniformly

reported positive outcomes on the part of adolescents raised by gay parents. Further, the correlates of positive adolescent adjustment are the same regardless of the parents' sexual orientation.

11. The third quotation presented to me at my deposition and used by BLAG was the following statement by Lawrence Kurdek:

Future research on gay and lesbian couples needs to address several key issues. One is sampling. Because most studies have used convenience samples of mostly white and well-educated partners, the extent to which findings generalize to the larger population of gay and lesbian couples is unknown.... Most studies on gay and lesbian couples have used self-report surveys. Future work could address some of the biases associated with self-report data . . . .

(BLAG Opp. Br. at 23-24.) When presented with this quote at my deposition, I explained as follows:

Well, he's certainly correct in noting these issues in the literature on gay and lesbian couples, particularly research of the sort that he has done, which has painstakingly, and I think very usefully, shown that the dynamics of relationships in gay and lesbian couples are characterized by the same dimensions as those in heterosexual families and that clearly elaborating on that and doing more research may be helpful for those who are interested in further understanding couple dynamics. I do want to underscore that this, his research, is focused on gay and lesbian couples, mostly couples without children, and that these studies don't look at the relationship between the couple variables and the children's adjustment. They are nevertheless very useful because they do show that the research on the dynamics of those couples is subject to and has the same sorts of correlates and variables as do heterosexual couples, both those that are married as well as those who are co-habiting.

(Dep. Tr. at 85:10-86:7.)

12. In other words, researchers typically identify areas for future research in their studies. This does not mean, as BLAG suggests, that the studies are invalid or unreliable. As I explained, Kurdek's research on same-sex couples' relationships is both rigorous and reliable. It is also important to note that he was not discussing research on gay parents, as BLAG incorrectly suggests.

13. Contrary to BLAG's misleading presentation, therefore, I have never suggested that the scientific research on gay parent families is flawed or deficient; rather, I made it clear that the research is not only robust, but reliably shows equally good outcomes for children of gay and heterosexual parents. None of the quotations that BLAG cites undercuts the validity of the research. BLAG fundamentally mischaracterizes the scientific evidence, more fully summarized in my affidavit to which an extended bibliography was appended.

#### **The Sources BLAG Cites Do Not Reflect the Science**

14. In further attempts to support its position that the gay parenting research should be dismissed because of methodological flaws, BLAG also made reference to a decision of the Eleventh Circuit Court of Appeals in the *Lofton* case (addressing a challenge to a Florida law banning adoption by gay people) and two articles, one written by Anne Hulbert, a writer, and one by George Dent, a law professor. Based on these writings, BLAG claims that, "Numerous studies have pointed to methodological flaws in those studies comparing heterosexual and homosexual parents." (BLAG Opp. Br. at 24.)

15. That is not the case. The Hulbert and Dent materials are non-scientific sources and, thus, are fundamentally unreliable. As an initial matter, neither Anne Hulbert nor George Dent have professional expertise with respect to child development. In addition, their articles were not published in peer-reviewed scientific journals.<sup>2</sup> Indeed, the three page

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<sup>2</sup> Some of the "authorities" that Dent cites in his article were authored by individuals who have been discredited as biased with respect to the research on homosexuality. For example, Dent cites Paul Cameron, the founder of an anti-gay advocacy organization called the Family Research Institute, who reportedly had his membership in the American Psychological Association revoked. He also cites George Rekers and Walter Schumm. Two courts have found Rekers' testimony about gay parents to be biased. As a Florida court explained: "[His] testimony was far from a neutral and unbiased recitation of the relevant scientific evidence. Dr. Rekers' beliefs are motivated by his strong ideological and theological convictions that are not consistent with science. Based on his testimony and demeanor at trial, the court cannot consider his testimony to be credible nor worthy of forming the basis of public policy." *In re Adoption of Doe*, 2008 WL 5006172, at \*12 (Fla. Cir. Ct. Nov. 25,

article by Hulbert, which was published in a popular on-line magazine, [www.slate.com](http://www.slate.com), contains an errata footnote acknowledging her earlier misunderstanding of statistics presented in a study.<sup>3</sup>

16. The Eleventh Circuit's characterization of the gay parenting research also does not match reality. The sources cited by the *Lofton* court purporting to show that the research is flawed include: (1) a 1995 commentary by Baumrind calling for the very kinds of studies that have been published in the years since; (2) a booklet written by Lerner and Nagai that was published by the Marriage Law Project, an advocacy organization that opposes marriage for same-sex couples; and (3) a review article written by Stacey and Biblarz that, contrary to the Court's characterization, deems the research sufficiently strong and reliable to draw the following conclusion:

Because every relevant study to date shows that parental sexual orientation, per se, has no measurable effect on the quality of parent-child relationships or on children's mental health or social adjustment, there is no evidentiary basis for considering parental sexual orientation in decisions about children's best interest.<sup>4</sup>

17. Contrary to the conclusion of the *Lofton* court, the research on gay parent families is a robust body of research that meets the rigorous methodological standards

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2008); *see also Howard v. Child Welfare Agency Review Bd.*, 2004 WL 3154530 (Ark. Cir. 2004), *aff'd*, 238 S.W.3d 1 (Ark. 2006) ("It was apparent from both Dr. Rekers' testimony and attitude on the stand that he was there primarily to promote his own personal ideology. If the furtherance of such ideology meant providing the court with only partial information or selectively analyzing study results that was acceptable to Dr. Rekers. . . . Dr. Rekers' willingness to prioritize his personal beliefs over his function as an expert provider of fact rendered his testimony extremely suspect and of little, if any, assistance to the court in resolving the difficult issues presented by this case."). As for Walter Schumm, the same Florida court that criticized Rekers concluded that Schumm "integrates his religious and ideological beliefs into his research." *Id.*

<sup>3</sup> BLAG also cites in its motion to dismiss an article by Lynn Wardle as purported support for its argument that children raised by same-sex parents miss the benefits of being raised by men and women. (BLAG Mem. in Support of Mot. to Dismiss at 43.) Like Dent, Lynn Wardle is a law professor with no professional expertise in child development and his article, which was published in a law journal, is not a scientific publication.

<sup>4</sup> The Hulbert article from [slate.com](http://slate.com) similarly misinterprets Stacey and Biblarz.

demanding for publication in the leading academic journals. There is simply no basis on which to dismiss this body of research as invalid or unreliable due to methodological deficiencies.<sup>5</sup>

18. Of the two studies cited by the *Lofton* court to purportedly show worse outcomes for children with gay parents, the first, a publication by Paul Cameron, is worthless because, although it claims to show that children are more likely to be molested by gay parents than heterosexual parents, it makes clear that the researchers did not even ask respondents about the sexual orientation of their parents. *See also* n. 1, *supra*. Second, the Stacey and Biblarz review discussed above did not conclude that children with gay parents fared worse than children with heterosexual parents. In fact, it concluded that there is “no evidentiary basis for considering parental sexual orientation in decisions about children’s best interest.” As discussed more fully in my original affidavit, the research on children raised by gay parents consistently shows that parental sexual orientation has no bearing on child outcomes. There can be no reasonable doubt that this is a matter of scientific consensus.

19. Finally, BLAG attempts to refute my statement that “[t]here is no empirical support for the notion that the presence of both male and female role models in the home promotes children’s adjustment or well being,” by referencing studies cited in the case *Irizarry v. Bd. of Educ. of Chi.*, 251 F.3d 604, 607 (7th Cir. 2001). (BLAG Rule 56.1 Stmt. ¶47.) As BLAG notes, those studies show only that so far as heterosexuals are concerned, the evidence that marriage “provides a stable and nourishing framework for child-rearing . . .

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<sup>5</sup> In addition, while BLAG did not cite it in the *Windsor* case, in *Pedersen*, BLAG cited Norval Glenn’s criticism of sampling in research on gay/lesbian parenting: *See* BLAG’s opposition to summary judgment in *Pedersen*, pp. 31-32 (citing Glenn’s article, “The Struggle for Same-Sex Marriage”). For the same reasons discussed above, Glenn’s article is without merit. Although Glenn dismisses this body of research for using small convenience samples, such sampling is appropriate and routinely used in psychological research. Moreover, a number of the studies on gay parent families did use representative samples.

refutes any claim that policies designed to promote marriage are irrational.” Significantly, the *Irizarry* court and these studies were not comparing families of heterosexual and gay couples—they were simply comparing married and non-married heterosexual couples. BLAG also cites a 1974 review by Biller extolling the positive impact that heterosexual fathers can have on their children’s development. The speculation nearly 40 years ago that that children needed to have both male and female parents in order to be well-adjusted has not been supported by the research. Research conducted since then has demonstrated that both mothers and fathers are important to their children *as parents*, not as males and females, and that the parents’ genders do not affect children’s adjustment.<sup>6</sup>

20. Finally, the sources cited by BLAG are not only unscientific and do not support their arguments, but were largely published prior to 2004. As discussed above and in my original affidavit, the body of scientific research pre-dating 2004 fully supported my opinion that child adjustment is not affected by the parents’ sexual orientation. Since then, however, there has been much additional research exploring the psychological adjustment of children and adolescents raised by same-sex couples. (I cited forty-three academic articles published after 2004 in Exhibit B appended to my initial affidavit.) This more recent research only serves to underscore the established conclusion that child adjustment is not in any way affected by parental sexual orientation.

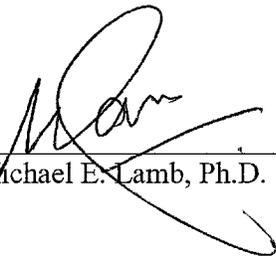
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<sup>6</sup> In its motion to dismiss at 40-41, n. 11, BLAG says that “In 2004, Congress extensively reviewed the evidence that children whose mother or father is absent are comparatively worse off,” and references an article by Barbara Dafoe Whitehead published in the *Atlantic* magazine (<http://www.theatlantic.com/magazine/archive/1993/04/dan-quayle-was-right/7015/>) and a report by the organization Child Trends (<http://www.childtrends.org/files/marriagerb602.pdf>) as examples. These articles discuss the research on family dissolution and single parenthood among heterosexual parents, noting poorer average outcomes for children whose family lives are disrupted by divorce and those who do not have supportive relationships with both of their parents. These articles do not, as BLAG suggests, say anything to support the claim that parents’ gender affects children’s adjustment. And they have no relevance to gay parent families other than to suggest that children of gay parents would also be more likely to be well adjusted if their parents’ relationships remained intact.

21. The conclusion stated in my affidavit—that children with gay, lesbian, and heterosexual parents are all as likely as one another to be well-adjusted because it is the quality of parenting and parent-child relationships, the quality of the parents' relationships with partners and other significant adults, and their social and economic resources, rather than their family structure or type that determines children's outcomes—is well supported by the empirical research literature, and is not undermined by the misleading assertions made by BLAG in opposing plaintiff's motion for summary judgment.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and accurate.

Executed this 13th day of September 2011 at Washington, DC.



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Michael E. Lamb, Ph.D.