

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

JONATHAN L. and MARY GRACE L.,

Petitioners,

v.

SUPERIOR COURT OF THE STATE
OF CALIFORNIA FOR THE COUNTY
OF LOS ANGELES,

Respondent;

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES, et al.,

Real Party in Interest.

B192878

(Los Angeles County
Super. Ct. No. JD00773)

ORDER

- (1) GRANTING REHEARING
- (2) DENYING MOTION TO INTERVENE BUT PERMITTING AMICUS BRIEFING
- (3) SETTING SCHEDULE FOR ADDITIONAL BRIEFING
- (4) SETTING TENTATIVE DATE FOR FURTHER ORAL ARGUMENT
- (5) ANNOUNCING INTENT TO SOLICIT ADDITIONAL AMICUS CURIAE BRIEFING

THE COURT:

The court has received the petition of father, Philip L., for a rehearing, and the joinder of mother, Mary L, in that request. The court has also received petitioners' opposition to Philip L.'s motion for a rehearing. Additionally, the court has received the motion of the Sunland Christian School to intervene in this matter with respect to two specific issues.

The court will grant the petition for rehearing. As to the motion to intervene, Sunland seeks to intervene only to address two legal issues: (1) whether there is a constitutional right to home-school; and (2) whether California law provides for instruction at home by non-credentialed parents. Sunland provides no authority for the proposition that a party without an interest in the child may be permitted to intervene in a dependency matter, and independent research has disclosed none.* It does not appear necessary for Sunland to be made a party to this action in order to brief the limited issues which Sunland seeks to have this court address. Allowing intervention, however, would grant Sunland access to the otherwise confidential dependency court file. (See Welf. & Inst. Code, § 827.) In order to preserve such confidentiality, the court will deny the motion to intervene, but construe Sunland’s intervention motion as a request to file an amicus curiae brief, which will be granted.

IT IS NOW ORDERED THAT:

1. The petition for rehearing is granted;
2. The motion to intervene by Sunland Christian School is denied; however, Sunland is granted permission to file an amicus curiae brief with respect to the two issues described in its motion to intervene, as follows:

- (a) Whether there is a constitutional right to home-school; and

* Sunland relies on *In re Jose C.* (2007) 155 Cal.App.4th 844, 848, for the proposition that a party “who is not a parent, guardian or child” may intervene in a dependency matter. But the intervenor in *In re Jose C.* was an Indian tribe in which the children were assertedly eligible for enrollment. A child’s Indian tribe is permitted to intervene in a dependency proceeding pursuant to federal law. (25 U.S.C. § 1911(c).)

(b) Whether California law provides for instruction at home by non-credentialed parents.

3. The parties may submit additional briefing in this matter by April 28, 2008. In addition, the Sunland Christian School may file its amicus curiae brief, on the issues set forth above, by April 28, 2008.

4. Each party, and Sunland Christian School, may file, on or before May 19, 2008, a brief responsive to any brief filed pursuant to paragraph 3 above.

FURTHER, it is the present intention of this court to set this matter for additional oral argument on its June 2008 calendar. In light of the issues raised in the petition for rehearing and in the motion to intervene, it is the further intention of this court to solicit amicus curiae briefs commenting on these issues from the California State Superintendent of Public Instruction, the California State Board of Education, the Los Angeles Unified School District, the Los Angeles County Board of Education, the California Federation of Teachers, the California Teachers Association and the United Teachers Los Angeles. Such amicus curiae briefs may be filed on or before May 19, 2008. Timely applications from other interested parties to file amicus curiae briefs will also be considered. Each party, and the amicus Sunland Christian School, if any of them so choose, shall have to and including June 2, 2008 to file a responsive letter brief to any brief submitted to the court by an amicus curiae.