

JUNE 2009 LEGISLATIVE AND CASE LAW UPDATE

FEDERAL LEGISLATION

Foster Care

Senator Jay Rockefeller introduced the Keeping Families Safe Act, which proposes to allow families to stay together in residential family treatment programs when one or both parents enter substance abuse treatment. Sen. Rockefeller stated "Parents are more likely to heal and families have a better chance of remaining intact when they stay together throughout the treatment process." The legislation offers financial support to promising residential family treatment programs by allowing foster care children to be placed with their parent in a safe treatment center while continuing to receive their foster care payment.

Source: All American Patriots, June 23, 2009

FEDERAL LEGISLATION

Home Visiting

On June 16, Senators Robert Menendez (D-NJ) and **Robert Casey (D-PA)** introduced S 1267, the Evidence-Based Home Visitation Act of 2009. This bill would amend Title V of the Social Security Act to provide grants to establish or expand quality programs providing home visitation to low-income families. Similar to HR 2667, the home visiting bill that was introduced by Chairman Jim McDermott (D-WA), this bill would call for initial funding of \$100 million in FY 2010, increasing to \$700 million by FY 2014. There are quite a few differences between this bill and HR 2667. For one, the state match is not specified in S 1267; rather it is left up to the discretion of HHS. In addition, S 1267 does not describe the level of funding which would be allocated to models that adhere to the strongest evidence of effectiveness.

The legislation has been introduced in both the House and the Senate and it would fulfill one of President Obama's zero to five early childhood initiatives. In addition, it is anticipated that the Senate Finance

Committee mark will contain a home visitation element, and we will continue to continue to track the progress as the House and Senate will still have to resolve the differences between their two proposals.

Source: Children's Monitor Online, June 29, 2009

FEDERAL LEGISLATION

Children's Mental Illness

June 24th, Representative Pete Stark (D-CA), along with Representatives Mary Bono Mack (R-CA) and Dave Camp (R-MI), reintroduced **the Healthy Transition Act**. The legislation was first introduced in the 110th Congress in conjunction with a Government Accountability Office (GAO) report finding that in 2006, at least 2.4 million young adults aged 18 to 26 experienced a serious mental illness. Stark has said, "We have an obligation to ensure that young adults with mental illnesses get the treatment they need, and the current system is inadequate." To help this population access needed services and make a successful transition to adulthood, the bill would provide planning and implementation grants to states to develop statewide coordination plans to help adolescents and young adults with serious mental illness. States would be urged to target specific populations, including but not limited to youth involved with the child protection and juvenile justice systems. The legislation would establish a federal committee to coordinate service programs helping young adults with mental illness, and provide technical assistance to states.

Source: Children's Monitor Online, June 22, 2009

FEDERAL LEGISLATION

Federal Employee Family Leave Bill

On Thursday, June 4, the House of Representatives passed HR 626, a bill that would provide up to four weeks of paid family leave time for birth, adoptive, and foster parents when a child joins the family.

The legislation builds on the Family and Medical Leave Act of 1993 that requires some limited unpaid leave time to parents. The House bill would require four weeks of paid leave to some federal government employees. The new bill applies not just to the birth of a new child, but would also extend the four-week leave to adults who become new parents through an adoption and parents who are beginning foster care. In many European countries, paid family leave is mandated for all employers. The 1993 act requires employers with 50 or more employees to offer 12 weeks of unpaid leave.

Source: Children's Monitor Online, June 15, 2009

ADOPTION

Kinship Adoption-Split Guardianship

Florida

George and Brenda Smith's daughter died in 2003. After a prolonged battle they finally won custody of their daughter's children. The future of two Jacksonville children whose parents died about 14 months apart had been the subject of ongoing court battles for more than four years. But today the future seems secure for them

What experts say was a landmark Florida Supreme Court ruling allowed their maternal grandfather, George Smith, 60, and his wife, Brenda, 59, to adopt the children. The children also have financial security after a Jacksonville jury awarded them and George Smith \$2.83 million in a wrongful death lawsuit filed after their mother's death. Unfortunately the legal battle over their adoption may have ended their relationship with their paternal grandparents, an outcome one attorney involved called heartbreaking. Smith, whose daughter La Shonda was the children's mother, and his wife first petitioned to adopt the children in April 2005. That was about a month after their 27-year-old father, died in a

car accident. Father's parents, who were not named in court documents, did not ask to adopt the children but did seek guardianship. Their position was that neither set of grandparents should adopt the children, thus creating a situation where both sets of grandparents had the chance to see the grandchildren regularly. The concern was that adoptive parents, like birth parents, are under no legal obligation to ensure contact between grandparents and grandchildren.

In 2006 a family court judge supported their position, giving the maternal grandparents primary guardianship of the children but denying adoption. In his order, the judge wrote that it was in the children's best interest to "enjoy the love, affection and involvement of all their grandparents in their lives. The District Court of Appeal upheld that decision. But the Florida Supreme Court ultimately disagreed. The high court called a split guardianship "the antithesis of the right to permanence and stability that is afforded by adoptions." The court said it's the policy of Florida that children need parents, not guardians. What the court said is that ... somebody needs to be the parents. Somebody needs to be in control. You can't have a situation where there are competing interests arguing over what's best for the children. It was stated that it's sad that there wasn't a legal way for both sets of grandparents to remain grandparents. What the paternal grandparents feared has become a reality. The grandparents, once members of the same church, have not communicated with each other in months, .

A lawsuit had been filed accusing two physicians of negligence because they failed to visit mother, who had gone to the hospital in October 2003 shortly after her child's birth, complaining of severe headaches. Instead she was treated with powerful pain medication and went into cardiac arrest. In January 2009 a jury found the physicians negligent and awarded about \$2.1 million to the children and \$755,000 to maternal grandfather. The jury was obviously moved by the same fact that tormented the grandparents. At 21, the mother of two had been "too young and too healthy to die." It was the first time observers had seen a jury cry in a civil case.

Source: John Pemberton, The Times-Union, Casey News Briefing, June 9, 2009

CHILDREN'S HEALTH INSURANCE

CHIP Funds Released

On June 19, HHS Secretary Kathleen Sebelius announced the release of \$6 billion to states for their Children's Health Insurance Programs (CHIP). CHIPs exist in every state and provide health coverage to millions of children whose families earn too much to qualify for Medicaid and those who are either not offered or cannot afford private coverage. The reauthorization of CHIP was signed into law by President Obama earlier this year as P.L. 111-3. The reauthorization maintains coverage for over seven million children and contains funding to expand CHIP or Medicaid coverage to four million more children. The reauthorization guarantees dental benefits and mental health parity, offers states the option to implement express lane eligibility, has grants for outreach and enrollment, and establishes a child health quality initiative.

The \$6 billion, available through the recent reauthorization, will be released in two pieces--the first \$1 billion has been dispensed to states and the remaining \$5 billion should be released by the end of September.

Source: Children's Monitor Online, June 22, 2009

DISPROPORTIONALITY

On Tuesday, June 23, the Alliance for Racial Equity in Child Welfare hosted a congressional briefing on racial disproportionality and disparities in the child welfare system. The mission of the Alliance is to address the institutional policies, patterns, and practices that contribute to racial disparities, including those that stem from the legacy of structural racism in this country.

While the statistics regarding disproportionality and disparities in the child welfare system are alarming, unfortunately they do not represent a new phenomenon. In 2007, the Government Accountability Office reported that factors contributing to

racial disproportionality included poverty, access to services, cultural bias, and distrust. The panel examined how the federal policies of the past and present have led to minority children making up the majority of child welfare case loads. In addition, they talked about how systemic change can be achieved at all levels of the system, and many of the panelists shared some of the great work that is taking place in their home states. There were recommendations proposed for ways to address and hopefully combat racial disparities and disproportionality within the system.

Specific recommendations included the need to fund demonstration projects that address the issue by using discretionary funding from the Child Welfare Research and Development Funds under Title IV-B, IV-E, and CAPTA; the need to conduct an annual report from HHS on racial equity in child welfare performance; and modifying the Federal Child and Family Services Review (CFSR) to assess racial disparities in outcomes for children and youth in the child welfare system.

Source: Children's Monitor Online, June 29, 2009

FOSTER CARE

Florida

The April 16 suicide death of 7-year-old Gabriel Myers, a foster child in the custody and care of the Florida Department of Children and Families, shocks the conscience. Gabriel apparently hung himself with the shower hose in the bathroom of his foster home in Margate.

The victim of sexual abuse, as well as other abuse and neglect that resulted in him being removed from his family and placed in foster care, Gabriel had been prescribed a variety of mind-altering psychotropic medications while in foster care to deal with the myriad behavioral problems he was experiencing, no doubt largely the result of the abuse he had suffered. Reports are that he was on three or four different drugs, or combinations thereof, at the time of his death. What is almost as shocking to the conscience as a 7-year-old wanting to, knowing how to and

actually committing suicide, is that a 7-year-old would be on not just one, but multiple psychotropic medications. Most such drugs have never been tested for pediatric use, and have not been FDA-approved for such use. Their prescription and use with kids is generally "off label," meaning there are no approved instructions or guidelines for such use.

Too often these drugs are used by DCF as chemical restraints to deal with difficult children who exhibit undesirable, inappropriate or dangerous behavior. Rather than deal with their underlying issues and problems, drugs are used to turn these children into non-disruptive zombies so that they can be safely placed in a foster home or institution. A 2005 study revealed that one out of every four foster children in Florida is on some sort of psychotropic medication, including multiple children less than 1 year of age. Never mind that no research has been done as to the long-term effects of such medications on a growing child's brain. Such use of these medications is reprehensible and amounts to warehousing children.

The goal is and should be to protect and rehabilitate children who have been harmed and damaged by abuse, abandonment or neglect, not simply to store them away safely, only to be shown the door when they turn 18 and age out of the foster care system. In this case, little Gabriel didn't even get that far. Instead, he ended up dead, at 7. Such a short, traumatic life abruptly and prematurely ended in an equally tragic manner.

Source: Brian J. Cabrey, Sun Sentinel, June 10, 2009

FOSTER CARE

Oregon

The Oregon State Senate unanimously approved a bill that "requires annual review of [foster] children's psychiatric medication when they are on more than two psychiatric drugs or are younger than 6." The bill was passed in response to a report which found that children in foster care were prescribed

psychiatric medications at a rate four times higher than other children under Medicare. The report also found that there was very little state oversight in managing the use of the medications by foster care. The governor has indicated that he will sign the bill into law.

Source: Michelle Cole, The Oregonian, June 23, 2009

FOSTER CARE

A study, reported by the Journal of Consulting and Clinical Psychology, found a lower rate of teenage pregnancy among girls with a history of delinquency that were placed in Multidimensional Treatment Foster Care (MTFC) compared to their peers who were placed in group care. The researchers followed 166 girls between the ages of 13 and 17 who were ordered to receive treatment for criminal behavior in either specialized foster care (MTFC) or a group care facility. After two years in their designated programs, 26% of the girls in MTFC became pregnant compared to about 47% in group care. The study also showed that the girls in MTFC also showed lower levels of criminal behavior, arrests and increased school engagement.

Source: Medical News Today, June 23, 2009

FOSTER CARE

Illinois

Transitional Living

New state legislation eases the transition into adulthood for foster youth who age out of care. If a foster child exits the system at emancipation, but subsequently wishes to reenter the system, the state is now required to allow the foster youth to stay in the system until they turn 21. Experts hope that the additional maturity time will reduce some of the statistics on pregnancy, incarceration, and education that come with leaving state care.

Source: Bonnie Miller Rubin, Chicago Tribune, June 18, 2009

FOSTER CARE

Illinois

The Cook County Public Guardian filed suit against the governor and the Illinois Department of Child and Family Services requesting that the court stop the proposed state budget plans to slash \$4 million in funds for psychological services provided to 100 foster children who were sexually or physically abused. The Guardian filed for a temporary restraining order and preliminary injunction to ensure the continuance of the services. The services include one-on-one counseling for the children and respite care for foster parents of traumatized children. It was also stated that, without psychological services, the foster children's mental health may deteriorate, costing the state more money in the long run.

Source: Lisa Donovan Chicago Sun Times, June 23, 2009

COURT CASES AFFECTING CHILDREN AND FAMILIES

PENNSYLVANIA CASES

OTHER STATES' CASES

ADOPTION

West Virginia: State ex rel. Kutil v. Blake

The Supreme Court of Appeals of West Virginia granted a writ of prohibition to bar enforcement of a trial court's order directing the removal of Baby Girl C (B.G.C.) from the foster home of Petitioners, a **same sex couple**, for placement with a "traditional family." The child was placed in Petitioners' home shortly after her birth, when she tested positive for cocaine; over a year later, The Guardian ad Litem filed a motion to have the child removed, maintaining that a more "traditional" placement would be in the child's best interests. The Virginia Department of Health and Human Services (DHHR) and Petitioners objected to the motion. The trial court permitted the Petitioners' intervention into the case and initially declined to remove the child, but ultimately ordered the removal of B.G.C. from Petitioners' home for placement with a "traditional family" after the child's mother's parental rights were terminated.

The trial court, finding that "children need both a mother and father," ruled that DHHR seek such a placement to promote the best interests of the child. At the hearing, DHHR advised the court that Petitioners' had more than the allowable number of unrelated children in their home. The court ordered removal, finding that Petitioners' home was over capacity, warranting immediate removal; the court also found that although the Petitioners' home might be the most appropriate adoptive placement, it was "unfair not to allow the child the option to be adopted by a traditional family." The court also concluded that the Petitioners could not adopt the child jointly under West Virginia law, which allows only unmarried individuals, married couples filing jointly, and married individuals with spouses' consent to adopt children.

The appeals court found the GAL's first ground for removal, that the Petitioners were not permitted to jointly adopt the child, to be premature at the permanency plan stage, which is intended only to recommend a general future course of action should parental rights be terminated. In relation to the capacity issue, while noting that the overcapacity situation needed to be corrected, the appeals court expressed concern over DHHS's manner of rectification. Commenting on the absence of evidence that Petitioners provided anything other than high quality care in their home, the court found the concern should have been what effect the relocation would have on the individual children, many of whom had been in the home a shorter time than B.G.C. In relation to the adoption "preference" for married couples urged by the GAL, the court stated that there is no legislative differentiation between eligible categories of persons who may adopt, and that such a policy determination is a legislative prerogative, outside the court's purview. The court concluded that a child's best interests are "served by preserving important relationship in that child's life;" in this case, B.G.C. had been living with Petitioners since birth and a disruption of her placement would not be in her best interest. Cite: No. 34618; 2009 W. Va. LEXIS 51 (W. Va. June 5, 2009)

ADOPTION

New Hampshire: In re Dufton

The Supreme Court of New Hampshire reversed the superior court's order dismissing grandmother's petition for grandparent visitation, holding that although the grandmother had relinquished her parental rights to the grandchildren's mother when the mother was an infant, grandmother still maintained the ability to seek visitation with her grandchildren because she was the grandchildren's "natural" grandparent. The court held that "grandparents, whether adoptive or natural, may petition the court for reasonable rights of visitation with the minor child." Here, the court found the even though grandmother, for adoption purposes,

is not the grandmother of her relinquished child's children, she is the "natural" or biological grandparent for purposes of the visitation statute and therefore had standing to bring the visitation petition. In addition, the court found that the adoption decree had not "severed the child from its own family tree" as grandmother and mother had a very close relationship after the mother had reached the age of majority.

Cite: No. 2008-712; 2009 N.H. LEXIS 70 (N.H. June 3, 2009)

ADOPTION

Ohio: In re Adoption of: A.J.B.

The Court of Appeals of Ohio, Twelfth Appellate District, Butler County affirmed the probate court's decision that biological father's consent was necessary in an adoption proceeding holding that the father's petition for allocation of parental rights filed one month prior to the adoption petition constituted a significant attempt to communicate with and support the child. Under Ohio law, the consent of a biological parent is not necessary if the parent has failed without justifiable cause to communicate with or provide support to the child for at least one year. Here, the court found that the father had attempted to communicate with and provide maintenance for the child when he filed the petition for allocation of parental rights and "it would be a gross miscarriage of justice to allow [step-father], with knowledge of the father's pending petition, to seek adoption ... by virtue of [step-father's] five-day-old marriage."

Cite: No. CA2008-12-306; 2009 Ohio 2200; 2009 Ohio App. LEXIS 1962 (Ohio Ct. App. May 11, 2009)

ADOPTION

KANSAS: In re Adoption of B.J.M.

The Court of Appeals of Kansas reversed and remanded an order of the McPherson District Court terminating the parental rights of father and granting step-father's petition for adoption, holding that the

district court violated father's right to due process by terminating his parental rights without affording him an opportunity to be heard. The appeals court, noting that the Due Process Clause requires that if a person is to be deprived of a constitutionally protected liberty or property interest the person must be given notice and an opportunity to be heard at a meaningful time and in a meaningful manner, found that father's due process rights were violated when the district court refused to transport father from Hutchinson Correctional Facility to the courthouse so he could attend the termination hearing and denied father's appointed counsel's motion to admit an affidavit prepared by father in lieu of his testimony at the hearing.

Cite: No. 100,823; 2009 Kan. App. LEXIS 548 (Kan. Ct. App. June 5, 2009)

CHILD DEPENDENCY

Maryland: In re Najasha B.

The Court of Appeals of Maryland vacated the juvenile court's dismissal of a child in need of assistance (CINA) petition, finding that the juvenile court erred when it held that the Department of Social Services (DSS) has a unilateral right to dismiss a CINA petition over the subject child's objection. The court found that once a CINA petition has been filed, the juvenile court has a duty under the state's *parens patriae* authority to determine the truth of abuse or neglect allegations and to determine whether the child's parents are able to give proper care to the child; if the child objects to DSS dismissal of the case, the juvenile court must consider the reasons for the child's objection during an adjudicatory hearing. Further, the court held that DSS does not have the same unilateral right to dismiss a CINA petition as plaintiffs in other civil cases because DSS is not seeking relief for itself but, rather, initiates the case to advance the child's welfare and "acts as the court's agent in attempting to remedy the problems that prompt CINA proceedings." Lastly, the court found that the child, as a party to the proceeding, is entitled to an adjudicatory hearing prior to a dismissal over his or her objection in order to ensure

that he or she is receiving proper care and the dismissal is in the child's best interest.

Cite: No. 114, September Term, 2008; 2009 Md. LEXIS 189 (Md. June 8, 2009)

CHILD DEPENDENCY

Visitation

WASHINGTON: In re the Dependency of Tyler L.

The Court of Appeals of Washington, Division Three, reversed an order of the Stevens Superior Court which suspended mother's visitation with her children and denied therapeutic visitation. The court of appeals held that because visitation is crucial to the reunification of families, it may only be limited or denied "when such limitation is necessary to protect the child's health, safety, or welfare." Here, while the children did experience extreme physical and emotional responses before and after visitation, such reactions are considered normal and appellant mother attended visits regularly, showed affection to the boys and interacted appropriately. The court held that the evidence did not support the trial court's finding that restricted visitation was necessary to protect the children, nor did the department provide necessary services, such as therapeutic visitation, that would aid in the reunification process, and therefore, the dependency court's restriction of visitation and denial of appellant mother's request for therapeutic visitation was in error.

Cite: No. 27033-5-III; 2009 Wash. App. LEXIS 1424 (Wash. Ct. App. June 11, 2009)

FOSTER CARE

California: Brandon S. v. California

The Court of Appeal of California, Second Appellate District, affirmed the ruling of the superior court which awarded a foster child \$250,000 in damages against his foster mother, but held that under state law a state fund could not be used to pay the award.

The appeals court found that the child's

negligent supervision claim, resulting from his sexual molestation by the biological child of the foster mother, fell within an exception to the statute which provides that the Fund is not liable for claims arising from a criminal act, regardless of whether it was perpetrated by the foster parent or a third party.

Cite: No. B196249; 2009 Cal. App. LEXIS 890 (Cal Ct. App. June 3, 2009)

PATERNITY

Mississippi: Lee v. Lee

The Court of Appeals of Mississippi affirmed the Lowndes County Chancery Court's denial of father's petition to modify a divorce judgment and corresponding adjudication of paternity to one of the two subject children holding that the lower court did not err when it found there to be no material change in circumstance since the divorce had been entered. The court held that to justify amending a divorce decree, the petitioner must show that since the divorce, a material change in circumstances has occurred and that man may not be absolved of his support obligations to non-biological child when he has voluntarily and knowingly assumed the obligation to pay support. Here, father knew prior to the divorce, through an at home paternity test, that he was not the biological father of the child but he still voluntarily accepted the terms of the divorce decree.

Cite: No. 2007-CA-02088-COA; 2009 Miss. App. LEXIS 260 (Miss. Ct. App. May 19, 2009)

TERMINATION OF PARENTAL RIGHTS

Nebraska: In re Chance J.

The Nebraska Court of Appeals reversed and remanded an order of the juvenile court terminating the parental rights of father, holding that the State did not provide sufficient evidence to support a finding by clear and convincing evidence that the father had abandoned the child, that reasonable efforts for reunification were not

required, and that termination of the father's parental rights was in the child's best interests. The State must prove by clear and convincing evidence that one of the statutory grounds listed in Nebraska law is present and that termination is in the child's best interests. Here, the court found that parental termination based upon the statutory ground of abandonment was insufficient because there was just cause or excuse for the father's absence due to the father's lack of actual knowledge regarding paternity, the child's appearance upon birth, and the mother's statement that the child was the product of extramarital relations. Next, the court found that reasonable efforts to preserve and unify the family were required due to the lack of statutory grounds for parental termination. Lastly, the court found that there was not sufficient evidence to prove that termination was in the child's best interest as the only evidence in the record to suggest otherwise was the testimony of the child's caseworker.

Cite: No. A-08-962; 2009 Neb. App. LEXIS 92 (Neb. Ct. App. June 2, 2009)

TERMINATION OF PARENTAL RIGHTS

California: In re E.G.

In an unpublished decision, the Court of Appeal of California, Fifth Appellate District, reversed and remanded an order of the family court terminating the parental rights of father, holding that the family court had improperly applied the presumption of abandonment under the law. The family court may presume that a child has been abandoned by the non-custodial parent if that parent has left the child in the other parent's custody for one year, without providing the child with support or communicating with the child, with the intention of abandoning the child. The appeals court found that the presumption was improperly applied in this case because once the father provided evidence, through his own testimony that he did not intend to abandon the child, the burden should have shifted to the stepfather to prove the father actually abandoned the child. Instead, the family court had improperly continued to rely

on the presumption in its decision to terminate the father's rights. The mother had been separated from her child shortly after birth and the child, now age 16, had lived with the petitioner-aunt who had never sought a formal custody order for the child. In reaching its decision, the court stated that the return of the child would violate the mother's right to custody over a third party, and would be contrary to the child's wishes.

Cite: No. F056472; 2009 Cal. App. Unpub. LEXIS 3963 (Cal. Ct. App. May 20, 2009)

TERMINATION OF PARENTAL RIGHTS

INDIANA: In re J.M.

The Supreme Court of Indiana affirmed a judgment of the superior court that denied the State's petition to terminate a mother and father's parental rights filed on grounds that the conditions that caused the child's removal from the parents' home would not be remedied due to the **parents' incarceration** and that termination of parental rights would be in the child's best interests. The Supreme Court noted that the trial court was correct in determining that the conditions causing the child to be removed may be remedied in the near future as the parents' "dates of release [were] close in time," and that it was not in the child's best interests to terminate parental rights because the mother and father had completed services. The father had obtained employment, housing arrangements, and transportation and the mother completed her bachelor's degree and a transition program. Further, the court noted that this was the second case in a matter of weeks in which incarcerated parents' rights had been wrongfully terminated.

Cite: No. 02S05-0904-JV-146; 2009 Ind. LEXIS 484 (Ind. June 16, 2009)

TERMINATION OF PARENTAL RIGHTS

MICHIGAN: In re Miteff

In an unpublished opinion, the Court of Appeals of Michigan reversed an order terminating the parental rights of mother, holding that the trial court incorrectly found there to be clear and convincing evidence to support termination, as mother had never been found to be unfit. The trial court terminated mother's parental rights after finding that she would not be able to protect the child from potential verbal and emotional abuse by her husband; the department of human services had previously investigated respondent's husband due to allegations that he emotionally abused his teenage daughter, mother's step-daughter. The appellate court held that the doctrine of anticipatory neglect, which permits an assumption that "how a parent treats one child is certainly probative of how that parent may treat other children," cannot serve as the sole basis for terminating parental rights if there is no finding of parental unfitness. Here, mother was never found to be unfit and court noted that respondent-mother's parental rights were terminated by the trial court through "guilt by association," because of acts committed by respondent-father. Further, mother attended all mandated parenting classes, benefitted from those classes, and demonstrated that she is willing and able to care for her son.

Cite: No. 288265; 2009 Mich. App. LEXIS 1296 (Mich. Ct. App. June 16, 2009)