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April 9, 2014
Via electronic filing

Elisabeth A. Shumaker
Clerk of the Court
United States Court of Appeals for the Tenth Circuit
Byron White U.S. Courthouse
1823 Stout Street
Denver, Colorado 80257

Re: *Kitchen v. Herbert*, No. 13-4178
Rule 28(j) letter regarding press reports on Professor Regnerus study

Ms. Shumaker,

Utah files this supplemental letter in response to recent press reports and analysis of the study by Professor Mark Regnerus, which the State cited at footnotes 34 and 42 of its Opening Brief, and which addresses the debate over whether same-sex parenting produces child outcomes that are comparable to man-woman parenting.

First, we wish to emphasize the very limited relevance to this case of the comparison addressed by Professor Regnerus. As the State's briefing makes clear, the State's principal concern is the potential long-term impact of a redefinition of marriage on the children of *heterosexual* parents. The debate over man-woman versus same-sex parenting has little if any bearing on that issue, given that being raised in a same-sex household would normally not be one of the alternatives available to children of heterosexual parents.

Second, on the limited issue addressed by the Regnerus study, the State wishes to be clear about what that study (in the State's view) does and does not

Elisabeth A. Shumaker
April 9, 2014
Page 2

establish. The Regnerus study did not examine as its sole focus the outcomes of children raised in same-sex households but, because of sample limitations inherent in the field of study at this point, examined primarily children who acknowledged having a parent who had engaged in a same-sex relationship. Thus, the Regnerus study cannot be viewed as conclusively establishing that raising a child in a same-sex household produces outcomes that are inferior to those produced by man-woman parenting arrangements.

Respectfully submitted,

/s/ Gene Schaerr

ECF CERTIFICATIONS

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1. all required privacy redactions have been made;
2. hard copies of the foregoing brief required to be submitted to the clerk's office are exact copies of the brief as filed via ECF; and
3. the brief filed via ECF was scanned for viruses with the most recent version of Microsoft Security Essentials v. 2.1.111.6.0, and according to the program is free of viruses.

/s/ Gene Schaerr