In the Supreme Court of Virginia

At Richmond

Record No. 120919

THE FALLS CHURCH, a/k/a The Church at the Falls-The Falls Church,

Defendant-Appellant,

- v. -

THE PROTESTANT EPISCOPAL CHURCH IN THE UNITED STATES OF AMERICA AND THE PROTESTANT EPISCOPAL CHURCH IN THE DIOCESE OF VIRGINIA,

Plaintiffs-Appellees.

BRIEF FOR 516 DONORS TO THE FALLS CHURCH AS AMICI CURIAE IN SUPPORT OF DEFENDANT-APPELLANT THE FALLS CHURCH

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GLOSSARY

Diocese	The Protestant Episcopal Church in the Diocese of Virginia
Donor Amici	Over 500 individuals who are among those who made donations to The Falls Church under the express conditions by checking the box or under the express representation by TFC that the funds given would not be going to TEC or the Diocese
Op.	January 12, 2012, Letter Opinion of the Court regarding complaints filed by the Protestant Episcopal Church in the United States of America and the Protestant Episcopal Church in the Diocese of Virginia and the amended counterclaims filed by the CANA Congregations
TEC or national church	The Protestant Episcopal Church in the United States of America
TFC	The Falls Church

INTRODUCTION AND INTEREST OF THE AMICI CURIAE

In his Memorial and Remonstrance Against Religious Assessments, Virginian James Madison, later the principal author of the First Amendment, wrote that government may not rightly "force a citizen to contribute" even "three pence only of his property for the support of any one establishment." Everson v. Board of Education, 330 U.S. 1, 65-66 (1947) (Appendix to dissent of Rutledge, J.). Similarly, Virginian Thomas Jefferson wrote in the Virginia Statute for Religious Freedom-now embodied in both the Virginia Constitution and Va. Code § 57-1-that "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves is sinful and tyrannical." Id. at 13 (quoting the Virginia statute). Indeed, it "compell[ing] [dissenters] to pay tithes and taxes to support was government-sponsored churches," and "to build and maintain churches and church property," that "aroused the[] indignation" of these "freedom-loving colonials." Id. at 10-11. And "these feelings ... found expression in the First Amendment," which was "intended to provide the same protection against governmental intrusion as the Virginia statute." Id. at 11.

The Trial Court's decision in this matter is a flagrant violation of the principles of disestablishment that Madison and Jefferson advocated and that are now codified in Virginia law. The Trial Court summarily

concluded—in one paragraph of a 113-page opinion—that all personal property held in any fashion by The Falls Church (TFC), including intangible funds, followed its real property pursuant to Va. Code §57-10. The Trial Court reached this conclusion notwithstanding the undisputed evidence of explicit donor restrictions on the use of that property.

The Donor Amici are over 500 individual donors to TFC, who are among those who gave on the explicit understanding that their donations would not go to the Diocese or TEC.¹ They are individuals whose donative intent was explicitly ignored by the Trial Court. Specifically, undisputed evidence showed that they and other donors imposed both negative restrictions (funds were not to be given to the Diocese or TEC) and specific affirmative restrictions (funds were to be used for specific purposes). The evidence further showed that TFC's leadership communicated the restrictions to the Diocese, and the Diocese never contested them. Indeed, a Diocesan task force recognized that both TFC and the Diocese had to honor them: "We either have to honor restrictions or give the money back." A6895.

¹ Counsel for all parties have consented to the filing of this brief by the Donor Amici. A complete list of the Donor Amici appears as an addendum to this brief.

The Donor Amici file this amicus curiae brief to assist the Court in deciding this matter and possibly understanding the implications if this Court were to uphold the Trial Court's allocation of funds to a purpose for which these Donor Amici are diametrically opposed and for which the funds at issue were never intended. As explained below, the Trial Court ignored both long standing principles of gift law and the long standing principles of the Virginia Act for Religious Freedom that one may not be compelled to give to a religious cause he does not believe in. Its ruling should be reversed.

The Donor Amici support all of The Falls Church's arguments on appeal, including its argument that TFC exercised complete discretion over its giving without the need for denominational approval or support. They file this brief, however, to address the court's specific error in awarding the national church and the Diocese personal property given on the express understanding that it would never be forwarded to the denomination—a particular affront to the donors' own religious liberty.

ASSIGNMENTS OF ERROR

For the purposes of this Brief, the Donor Amici address only Assignment of Error Number 5:

5. The trial court erred in awarding TFC's personal property to plaintiffs—even though plaintiffs never had any control over TFC's funds or their use, and TFC's donors, for religious reasons, gave on the express condition that their gifts *not* be forwarded to plaintiffs—in violation of Va. Code §57-1 and the Religion Clauses of the U.S. and Virginia Constitutions.

STATEMENT OF THE CASE AND PROCEEDINGS BELOW

For the purposes of this Brief, the Donor Amici adopt the statement of the Case and Proceedings Below of the Appellant.

STATEMENT OF FACTS

For the purposes of this Brief, the Donor Amici adopt the statement of facts of the Appellant. The following facts highlight the issues as they relate to the Donor Amici and Assignment of Error #5:

The evidence at trial was uncontradicted that because of deep doctrinal disagreement over positions and actions taken by the Diocese and TEC in recent years, TFC donors would not donate funds to TFC absent an assurance that their donations would *not* go to either the Diocese or TEC. A8204-05. This donor intent was honored by the vestry of The Falls Church.

Initially, TFC adopted an "opt out" policy that gave members the ability to designate on their checks, pledge cards, or other registrations that their donations would not be shared in whole or part with TEC and/or the Diocese. In response to this policy, "84 percent of the [TFC] congregants ... checked the box that they did not want their tithe to go to the Diocese and, therefore, to the national Church." A8201-05.

In the wake of the 2003 General Convention, TFC shifted from an "opt out" policy. Members had become even more vocal about not wanting their pledges to support either TEC or the Diocese. Given the overwhelming numbers of members who objected to any part of their money going to the denomination, the vestry of TFC chose in 2003 and 2004 to revise their policy on designating gifts. These vestries informed members that their monies would *not* go to support either the Diocese or TEC, and that any members wishing to support the Diocese or TEC should do so independently. The trial testimony confirmed that members were aware and approved of the vestry decisions:

- Q Did members of The Falls Church acknowledge that none of their money would be contributed to the Diocese or the Episcopal Church?
- A Yes.
- Q Did any member of The Falls Church complain to the vestry that they were unaware that none of their money would be contributed to The Falls Church [sic] or the Episcopal Church?

A No.

A8204-05. Neither the Diocese nor TEC denied that these policies were implemented. Nor did they allege that donors to TFC were unaware of

them. Nor did they introduce any evidence that members objected to the policies. Thus, it was undisputed that the gift policies were put in place to accommodate the members' desire that their money *not* support the Diocese or TEC.

The cutoff of funding to TEC and the Diocese occurred over three years before TFC voted to disaffiliate and to retain ownership of the property at issue—the overwhelming results of which confirmed the donors' intent that their contributions would not be forwarded to TEC or the Diocese.²

The Diocese itself recognized that it has to honor the intent of donors as it relates to restrictions on giving. See A6895. As the Diocese's own task force on the issue explained shortly after The Falls Church ceased making contributions to the denomination, "assessments are easily defeated if lay people restrict their offerings. Once again, we are not the IRS and cannot garnish people's wages. <u>We either have to honor</u> <u>restrictions or give the money back</u>." Id. (emphasis added).

² At The Falls Church, 90.5 percent of the congregation (1221 members) voted to disaffiliate, and 94.3 percent (1272 members) voted that the majority of the congregation should retain its property. A235-36.

STANDARD OF REVIEW

Issues of law are reviewed *de novo*. *Bailey v. Town of Saltville*, 279 Va. 627, 633 (2010). Mixed questions of law and fact are reviewed *de novo*. *John Crane, Inc. v. Hardick*, 284 Va. 329 (2012).

ARGUMENT

Two basic arguments support reversal of the Trial Court's decision to award the Diocese personal property that was given to TFC on the express understanding that the personal property was not to be given to the Diocese or TEC. First, the Trial Court's ruling would violate the express conditions, both negative restrictions and specific restrictions, upon which the tangible and intangible personal property was conveyed to TFC. Second, the Trial Court's ruling is inconsistent with the history of Virginia, with its Freedom of Religion Act, with the Church Property Statutes, and with general property and gift law.

I. The Trial Court's Use of 57-10 Ignored Donor Intent and Was Erroneous.

The Trial Court read Va. Code §57-10 to mean that "the personal property of [TFC] follows the disposition of the real property of [TFC]" and "must also be turned over to the Diocese." A156. In making the determination of what personal property to include in this category, the Trial Court focused on "a point in time when it was absolutely clear that a

contribution or donation or the payment...was not a contribution to an *Episcopal* congregation." *Id.*

This test is erroneous. The test should have included a specific inquiry into whether or not the funds at issue had a restriction, either negative or specific, prohibiting the funds from being transferred to the Diocese or TEC. Yet the Trial Court failed to approach the analysis from the view point of the donor's intent, and chose to analyze whether or not a donation went to an Episcopal congregation.

Indeed, the Trial Court did so while recognizing from a factual perspective that the "Congregants were given the opportunity to designate that no portion of their [tithe] should go to the Diocese; or the congregation stopped giving money to the Diocese entirely; or the congregation established a congregation fund only." A156. The Trial Court erroneously chose a point in time beyond which either party considered appropriate – the date of the filing of the declaratory judgment actions by the Diocese and TEC. This date in time does not reconcile with the facts as presented at trial nor the law on gifts.

A. Section 57-10 cannot trump donor intent.

Va. Code §57-10 could not justify awarding the Diocese or TEC several million dollars of property given on the express condition or

solicitation that it was *not* to go to the Diocese or TEC. Yet the Trial Court's ruling in essence compels these Donor Amici, and all TFC donors who gave on this basis, to give millions of dollars to the Diocese and TEC in violation of their consciences and settled law.

The facts related to these funds are undisputed.

- On account of significant theological differences with the Episcopal Church, TFC adopted a policy that allowed members to designate that their donations would not be shared with plaintiffs. A8201-05.
- In response, "84 percent of [TFC's] congregants ... checked the box that they did not want their tithe to go to the Diocese and, therefore, to the national Church." A8202-03. TFC adjusted its giving to the Diocese to conform to these designations.
- In 2003, on account of even greater concern from its members and donors, TFC announced that donations to the church would go only to outreach approved by the vestry and that anyone who wanted to give funds to TEC or the Diocese needed to make separate donations. A7865-68. That policy stayed in effect until TFC disaffiliated from the denomination. *Id*.

The Trial Court acknowledged all three of these facts. Nevertheless, it

concluded that it was merely necessary to determine "a point in time when it was absolutely clear that a contribution … [to TFC] was *not* a contribution to an *Episcopal* [entity]." A156; and moreover, chose a "point in time" in 2007 that was several years after TFC's members insisted that giving to the Diocese or TEC cease and months after TFC voted to disaffiliate. The Trial Court thus awarded these funds and all property purchased therewith in direct contravention of the explicit donor restriction.

In analyzing the applicability of §57-10 to this case, it must be noted that until 2005 §57-10 was specifically restricted to "books or furnishings" and was changed to include "personal property." Thus, for much of the time period at issue, the statute did not even apply to funds, but rather only items such as Bibles or hymnals or chairs. Further, nothing in the legislative history § 57-10 or its language purports to override donor restrictions. The most that could conceivably be said is that § 57-10 provides a default rule that, unless there is a contrary indication in the relevant documents and evidence, the personal property should be treated like the realty. It cannot reasonably be read to apply where the donors specifically gave on the express understanding that their money would not be forwarded to the denomination. Yet the Trial Court failed to address the undisputed testimony concerning the wish of TFC's donors not to support the Diocese or TEC under the concept that these donors were giving to a church affiliated with the Diocese and TEC. A156 ("[TFC] in 2003, 2004, 2005, and through most of 2006 remained [an] *Episcopal* church[]").

Nothing put the donors on notice that the Diocese or TEC could possibly be entitled to their restricted donations. The Diocese itself never claimed that it could override donor intent. To the contrary, a Diocesan task force admitted that donor restrictions had to be honored. Α memorandum written in 2004, just one year after TFC cut off all unrestricted gifts to plaintiffs, recognized that "a significant minority of parishes and individuals in the Diocese have conscientious objections to giving to support the Diocese, in part because they do not wish their money used to support the General Church and in part because they object to the votes of our Bishop and lay and clergy deputations at General Convention." The task force acknowledged "the reality that many pledgers A6884. restricted gifts to their parishes to assure no money went to the diocese or General Church." A6885. It further conceded that neither the Diocese nor individual congregations could ignore those restrictions: "We either have to honor restrictions or give the money back." A6895. Yet instead of honoring these restrictions or giving the money back, the trial court's order required that these funds be transferred to the very religious entities that

were the subject of the restrictions.

B. Section 57-10 Does Not Trump Well Established Gift Laws

The fundamental law related to honoring a donor's intent goes to the

validity of the gift and has long been established as something that needs

to be honored. In addressing a testamentary gift that had a specific donor's

intent, this Court has held in St. Stephen's Episcopal Church v. Morris'

Administrator, 115 Va. 225, 227 (Va. 1913) that:

There can be no question that the testator could lawfully dedicate the whole or any part of his estate, even though it consisted entirely of realty, to the erection of this memorial and the purchase of the tombstones mentioned. As to that portion of the estate dedicated to these purposes, the church is not the beneficiary, but a bare trustee, holding the same for the objects named, and if for any reason the church through its agents could not administer the trust, the court would administer it and accomplish the purposes of the testator, it being well settled that a court of equity will not permit a trust to fail for the want of a trustee. *Id. Emphasis added.*

There should be no distinction between an *inter vivos* gift and a testamentary gift as it relates to honoring donor's intent. As the United States Supreme Court observed in *Watson v. Jones*, case that is far more deferential to denominational rights than is Virginia law, *see Norfolk Presbytery v. Bollinger*, 214 Va. 500, 504 (1974), "it would seem also to be the obvious duty of the court, in a case properly made, to see that the

property so dedicated is not diverted from the trust which is thus attached to its use." 80 U.S. 679, 675 (1871). In this case, the undisputed evidence and finding by the Trial Court was that certain donations were not to go to the Diocese or TEC. The Trial Court had the equitable power to honor this donor intent and accomplish the purposes of the gift. Yet, not only did it not accomplish the purpose of the gift, it turned around and gave the gift to the specific entity which the gift was prohibited from going to.

As the Virginia Supreme Court queried in *Gallego's Ex'rs v. Attorney General*, 30 Va. 450, 474 (1832): "Does it not strike the most common understanding as an invasion of right, to give an estate which is devised to a roman catholic charity, to a charity of the church of England, on the principle, that the first was void at law, and the next is *cy pres* the testator's intention, when nothing in the world could have been farther from his intention?" If history is not to repeat itself, this Court should reverse the Trial Court's opinion and bring it into accord with the undisputed evidence of donor intent as to personal property.

II. The Trial Court's Decision is Contrary to Virginia's Act for Religious Freedom and the Virginia Constitution

Virginia's church property statutes and history of disestablishment further confirm that reversal is warranted. In the words of Thomas Jefferson—now codified in the Virginia Constitution and Code—"[T]o

compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical..." Va. Code §57-1. Any reading of § 57-10 that permits awarding monies in contravention of the wishes of donors violates both the Virginia Act for Religious Freedom, Va. Code § 57-1, and the donors' First Amendment and state constitutional rights. *See* Va. Const. art. I, § 16 ("No man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever [I]t shall be left free to every person to select his religious instructor, and to make for his support such private contract as he shall please.")

It is hard to convey in writing the tremendous shock sustained by the Donor Amici upon learning that monetary donations solicited with the specific representations and made with explicit restrictions that the funds would not go to the Diocese or TEC have been turned over to them as a result of the Trial Court's ruling. The Trial Court's ruling has the effect of compelling these Donor Amici into supporting an organization that is contrary to their religious beliefs. As such, the Trial Court's ruling is contrary to Va. Code §57-1 and the Virginia Constitution.³

³ Other provisions of Virginia law confirm that the conditions imposed by donors of property must be honored. *E.g.*, Va. Code § 57-4 ("Donations to vestries for charitable purposes. Where, previous to January 30, 1806, any donation was made of money or any other thing, for a charitable purpose, and the donation was to be controlled or managed by a vestry, the

Virginia has a long history of ensuring that one has the right to support that which he believes in and correspondingly shall not be forced or compelled to support something that he does not. Va. Code § 57-1 provides that no man shall be compelled to do so. Yet the Trial Court's opinion does just that, by directing that monies contributed by members will go to the very entities that they intended would not receive support. The Trial Court's ruling forces donors to provide financial support to a whose denomination doctrine leadership and they have found And as Virginia law makes clear, the fact that the objectionable. denomination may at some earlier point have been religious adherents of the donors' "own religious persuasion" is irrelevant. Va. Code § 57-1.

Given § 57-1's specific imperative that individuals not be compelled to financially support religious denominations or clergy to which they object, it makes no sense to read the general language of § 57-10 as carving out an

governing body of the county, city or town, in which the charity was intended by the donor to be exercised, shall exercise the same powers, and perform the same duties, respecting the donation, that could or ought to have been exercised and performed by the vestry, if it had continued to exist and been a corporate body, and shall apply such money or other thing in such manner as may have been directed by the donor."); Va. Code § 22.1-107 (school boards having control over church property shall manage the property "according to the wishes of the donor"). The same neutral principle governs outside the church property context. *E.g.*, Va. Code § 22.1-126 (property given to school boards shall be managed and applied "according to the wishes of the donor").

implicit exception to, or impliedly repealing, that rule. See Boulevard Bridge Corp. v. City of Richmond, 203 Va. 212, 218 (1962) ("a later act does not by implication repeal an earlier act unless there is such a clear, manifest, controlling, necessary, positive, unavoidable, and irreconcilable inconsistency and repugnancy, that the two acts cannot ... be reconciled"). Rather, those statutes should be read "in pari materia." *City of Virginia Beach v. Board of Supervisors*, 246 Va. 233, 236-37 (1993). As explained below, however, even if the Court were to reach a different conclusion about Virginia statutory law, the U.S. and Virginia Constitutions would foreclose such a reading of § 57-10. For the government, through its courts, to override an individual's wishes not to support a particular religious denomination is a constitutional violation of the highest order.

As provided above, the Diocese admits that it has to honor a donor's intent and if it cannot, then it must return the money. Yet, the Trial Court's ruling essentially negates this fundamental principle. Even in the church property context, the United States Supreme Court has long recognized that courts are duty-bound to honor donors' intent. As the Court explained in *Jones v. Wolf*, "regardless of the form of church government, it would be the 'obvious duty' of a civil tribunal to enforce the 'express terms' of a deed, will, or other instrument of church property ownership." *Jones v. Wolf*, 443

U.S. 595, 603 n.3 (1979) (quoting *Watson v. Jones*, 80 U.S. 679, 722-23 (1871)). And *Watson*, the decision upon which *Jones* relied for this proposition, confirms that this principle is no less true for donations of personal property than of real estate: "[I]t must be that [donors] can prevent the diversion of the property or fund to other and different uses. This is the general doctrine of courts of equity as to charities, and it seems equally applicable to ecclesiastical matters." 80 U.S. at 723; *see also id.* (noting that this rule applies both to "congregation[s] of the independent or congregational form" and to those having the "associated form of church government").

The claims ruled upon by the Trial Court were declaratory judgment actions in which the Trial Court was charged to apply neutral principles of law to a church property dispute. The Trial Court factually acknowledged that donors to the churches, including TFC, restricted their donations. Yet, utilizing Va. Code §57-10, the Trial Court chose to ignore this donor intent. As such, the decision to award millions of dollars of restricted donations to a cause that they were specifically restricted from going to is inconsistent with general laws of property, including gifts, as well as the neutral principles of law governing church property disputes.

CONCLUSION

The Trial Court's order directing that funds in possession of TFC as of

January 31, 2007 be turned over to the Diocese should be reversed.

Respectfully submitted,

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ADDENDUM

DETAILED STATEMENT OF INTEREST OF THE AMICI

The *Donor Amici* are individual donors who gave gifts in the form of money and personalty to The Falls Church between the time frame of January, 2003 and February 1, 2007. The *Donor Amici* have a personal stake in the appeal as their gifts were made with specific restrictions, reflecting sincere and strongly held religious disagreements with the Diocese and TFC, that their gifts would not go to the Diocese or TEC. Yet these gifts were ordered to be given over to the Diocese or TEC as a result of the ruling handed down by the Trial Court.

These *Donor Amici* are in the unique position to inform the Court of the effect that the Trial Court's ruling had on them and other TFC donors who similarly made contributions during this period, as individual who exercised their right to restrict the use of their contributions, and in so doing chose to reflect their religious preferences. The *amici* believe they can provide the Court with a helpful analysis on the issues presented beyond the discussion presented in the briefing by the parties.

The following is a list of the Donor Amici:

Adams, John Adams, Terri Adams, Jonathan	Allen, Timothy Bloom, Jeffrey Alan Anderson, Diana Kay	Ball, Whitney L. Ballou, Ernest Wade, Jr.
Adams, Lili	Arllen, Christian	Ballou, Teri
Aderholt, Robert	Artz, Kelley	Barker, Georgianna W.
Aderholt, Caroline	Atkins, Paul	Barker, James Y.
Aderton, Alex	Atkins, Sarah	Barratt Jr., Henry D.
Aderton, Ann S.	Austin, Russell	Barratt, Madelin J.
Aderton, Margaret L.	Avery, Kent	Barratt, Ellen L.
Alexander, Barbara	Avery, Marjorie	Barth, Fritz
Bates	Awan, Jawaid	Bates, Ricki
Alexander, James L.	Awan, Patricia	Blankingship, A. Hugo,
Alexander, John V.	Ayre, Amy	Jr.
Allen, Dave	Ayre, Daniel J.	Blankingship, Page
Allen, Mary	Baker, Audrey	Boning, William
Allen, Matt	Baker, Cynthia	Boning, Wendy
Allen, Mike	Bakke, Dennis	Boulter, Rosemary
Allen, Seth	Bakke, Eileen	Rutherford

Bouscaren, Pierre Bova, Thomas Bowers, David Bowers, Jennifer Bowman, Douglas Bowman, Carol Boyle, Frances Breeden, Constance D. Brooks, Michelle K. Brown, Ken M. Brown, Meredith R. Brunner, Michael E. Bryan, Andrea Buckingham, William Buckingham, Susan Buckles, Glenn Burke, David Burke, Hanks Burns, David Burns, Barbara Buttler, Robert Butler, Patricia Campanelli, Richard and Shannon Carlson, Marianne Carlson. Kevin Casey, Samuel Casey, Jill Chandler, Charles Chandler, Gwynneth Clapp, Fred Clapp, Pam Clark, Susan S. Clayton, William Clayton, Dorothy Cockerham, Lance Cockerham, Marcella Cole, Martha Cole, Sybil B.

Comeau. Chris Comeau, Morna Condit, Ann Conley, Kathleen Connors, George W. Cook, Charles M. Cook, Nancy W. Cooper, Ramond Covington, Jonathan Covington, Marche Cox, William Cox, Elizabeth D. Crabill, Donald F. Crabill, Marg M. Creighton, Andrew Creighton, Susan Cromartie, Michael Cromartie, Jenny Cullina, Suzanne Cullina, John Currie, Caudra Daines, Christine Placesi, Rob Dean. Kim Dean, Peter Dean, Richard and Susan Deatherage, Bradley Todd Deatherage, Judith E. Deiss, Nancy Moncure Deiss, William E. Den Herder, Nathan Den Herder, Susan Denny, Tracy Denny, Tracy Der, Sandor Dobb, Amy Dobb, Harold Dobbs, Amy Wooden

Domenech, Emily Domenech, Doug Domenech, Jeanne Doughty, Thomas E. Doughty, Mary Beth Doyle, Barry Dovle, Pei Eckard, Sara Engelhardt, Bruce Engler, Caryl Davis Fager, Dan Fager, Linda Fash, Susan Fast-Gustafson. Sharon Fertig-Dykes, Susan Fife, James Filiatrault, Christine Givens Fisher, Peggy Fisher, Ken Fitzpatrick, Anne Fleming, Mary Elizabeth Fleming, Patrick Fowler, Mark Fowler, Kerry Garber, Steve Garber, Meg Garnett, Freddie Garnett, Margretta Gasho, Larry Gasho, Norby Gentry, Kevin Gentry, Anne Gerlach, Bryce (Greg) Gewehr, Wesley H. Gewehr, Sharon J. Giere, Colleen D. Giere, Michael

Glaser. Deborah Glaser, Lee Glass, Bob Glass, Dawn Gomez, Juanito Gorman, Mark Gorman, Colette Graves, Kathleen Gray, Luther W Green, David K. Greenleaf, Jennifer H. Grose, Phyllis J. Grose, Vernon L. Grossmann, Stephen Grossmann, Madeline Haley, Katherine Hamilton, William B. Hammersen, Carol Hammersen, Frederick P.A. Hampson, James Hampson, Jane Harlan, Phillip Harlan, Nancy Harmes, William Harris, Joel Harris. Kate Harris, Addison Harrison, Walker Harris, Drew Hayes, Kitty Hayes, Tim Haygood, Katherine H. Henderson, Craig Henderson, James Henneberg, Daniel Henneberg, Jacquelyn S. (Jackie) Henneberg, Robert Daniel

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of December, 2012, copies of the foregoing Brief of Amici Curiae In Support of Appellant were sent by third party commercial carrier or U.S. Mail to all counsel named below.

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