

CLOSED,NEBRASKA-DEFENDANT,NEBRASKADOCKET,TRIAL-LINCOLN
U.S. District Court
District of Nebraska (4 Lincoln)
CIVIL DOCKET FOR CASE #: 4:03-cv-03155-JFB-TDT

Citizens for Equal Protection et al v. Bruning et al
Assigned to: Judge Joseph F. Bataillon
Referred to: Magistrate Judge Thomas D. Thalken
Cause: 42:1983 Civil Rights Act

Date Filed: 04/30/2003
Date Terminated: 01/04/2007
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Citizens for Equal Protection
Inc., a non-profit organization
incorporated under the laws of Nebraska

represented by **Amy A. Miller**
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF NEBRASKA
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Plaintiff

**Nebraska Advocates for Justice and
Equality**
*a non–profit organization incorporated
under the laws of Nebraska*

represented by **Amy A. Miller**
(See above for address)
ATTORNEY TO BE NOTICED

David S. Buckel
(See above for address)
ATTORNEY TO BE NOTICED

Fred B. Chase
(See above for address)
ATTORNEY TO BE NOTICED

James D. Esseks
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ATTORNEY TO BE NOTICED

Robert F. Bartle
(See above for address)
ATTORNEY TO BE NOTICED

Sharon M. McGowan
(See above for address)
ATTORNEY TO BE NOTICED

Tamara Lange
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

ACLU Nebraska
*a non–profit organization incorporated
under the laws of Nebraska*

represented by **Amy A. Miller**
(See above for address)
ATTORNEY TO BE NOTICED

David S. Buckel
(See above for address)
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Robert F. Bartle
(See above for address)
ATTORNEY TO BE NOTICED

Sharon M. McGowan
(See above for address)
ATTORNEY TO BE NOTICED

Tamara Lange
(See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant

Jon C. Bruning
Attorney General, in his official capacity

represented by **Dale A. Comer**
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ATTORNEY TO BE NOTICED

Defendant

Michael O. Johanns
Governor, in his official capacity
TERMINATED: 05/12/2005

represented by **Dale A. Comer**
(See above for address)
ATTORNEY TO BE NOTICED

Matthew W. McNair
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Dave Heineman
Governor

represented by **Dale A. Comer**
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ATTORNEY TO BE NOTICED

Matthew W. McNair
(See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
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04/30/2003	<u>1</u>	COMPLAINT against Defendants Attorney General Jon C. Bruning, and Governor Michael O. Johanns. Two Summonses issued, with receipt number 404524, in the amount of \$ 150.00, by Attorney Robert F. Bartle on behalf of ACLU Nebraska, Citizens for Equal Protection, and Nebraska Advocates for Justice and Equality (Attachments: # <u>1</u>)(KBJ) (Entered: 05/01/2003)
04/30/2003	<u>2</u>	CIVIL COVER SHEET (KBJ) (Entered: 05/01/2003)
04/30/2003	<u>3</u>	Two Summonses Issued (COPY) as to defendants Attorney General Jon C. Bruning, and Governor Michael O. Johanns. (KBJ) (Entered: 05/01/2003)
04/30/2003	<u>8</u>	SUMMONS Returned Executed upon defendant Attorney General Jon C. Bruning on 4/30/2003. (KBJ) (Entered: 05/01/2003)
04/30/2003	<u>9</u>	SUMMONS Returned Executed upon defendant Governor Michael O. Johanns on 4/30/2003. (KBJ) (Entered: 05/01/2003)
05/01/2003	<u>4</u>	ATTORNEY LETTER by Clerk that Attorney Brian Chase has not registered for admittance to practice or registered for the system. If the requested action is not taken within fifteen (15) days of the date of this letter, this matter will be referred to the assigned magistrate judge for the entry of a show cause order. (KBJ) (Entered: 05/01/2003)
05/01/2003	<u>5</u>	ATTORNEY LETTER by Clerk that Attorney David S. Buckel has not registered for admittance to practice or registered for the system. If the requested action is not taken within fifteen (15) days of the date of this letter, this matter will be referred to the assigned magistrate judge for the entry of a show cause order. (KBJ) (Entered: 05/01/2003)
05/01/2003	<u>6</u>	ATTORNEY LETTER by Clerk that Attorney James D. Esseks has not registered for admittance to practice or registered for the system. If the requested action is not taken within fifteen (15) days of the date of this letter, this matter will be referred to the assigned magistrate judge for the entry of a show cause order. (KBJ) (Entered: 05/01/2003)
05/01/2003	<u>7</u>	ATTORNEY LETTER by Clerk that Attorney Tamara Lange has not registered for admittance to practice or registered for the system. If the requested action is not taken within fifteen (15) days of the date of this letter, this matter will be referred to the assigned magistrate judge for the entry of a show cause order. (KBJ) (Entered: 05/01/2003)
05/01/2003	<u>10</u>	MOTION (request) to reissue summonses by Attorney Robert F. Bartle on behalf of Plaintiffs ACLU Nebraska, Citizens for Equal Protection, and Nebraska Advocates for Justice and Equality (KBJ) (Entered: 05/01/2003)
05/09/2003	<u>11</u>	Two Summons Issued (COPY) as to defendants Jon C. Bruning and Michael O. Johanns. (KBJ) (Entered: 05/09/2003)
05/14/2003	<u>12</u>	SUMMONS (REISSUED per chambers) Returned Executed upon defendant Michael O. Johanns on 5/14/2003. (KBJ) (Entered: 05/15/2003)
05/14/2003	<u>13</u>	SUMMONS (REISSUED per chambers)Returned Executed upon defendant Jon C. Bruning on 5/14/2003. (KBJ) (Entered: 05/15/2003)
05/14/2003	<u>14</u>	APPLICATION/ORDER admitting pro hac vice Attorney David S. Buckel for Plaintiffs ACLU Nebraska, Citizens for Equal Protection, Nebraska Advocates for Justice and Equality. Signed by Deputy Clerk on 5/14/2003. (KBJ) (Entered: 05/15/2003)
05/16/2003	<u>15</u>	APPLICATION/ORDER admitting pro hac vice Attorney James D. Esseks for Plaintiffs ACLU Nebraska, Citizens for Equal Protection, and Nebraska Advocates for Justice and Equality. Signed by Deputy Clerk on 5/16/2003. (CS,) (Entered: 05/16/2003)
05/16/2003	<u>16</u>	APPLICATION/ORDER admitting pro hac vice Attorney Tamara Lange for Plaintiffs ACLU Nebraska, Citizens for Equal Protection, and Nebraska Advocates for Justice and Equality. Signed by Deputy Clerk on 5/16/2003. (CS,) (Entered: 05/16/2003)

05/22/2003	<u>17</u>	APPLICATION/ORDER admitting pro hac vice Attorney Brian Chase for Plaintiffs ACLU Nebraska, Citizens for Equal Protection, and Nebraska Advocates for Justice and Equality. Signed by Deputy Clerk on 5/22/2003. (KBJ) (Entered: 05/27/2003)
05/28/2003	<u>18</u>	MOTION for Extension of Time to File Answer by Attorney Matthew W. McNair on behalf of Defendants Jon C. Bruning, Michael O. Johanns (McNair, Matthew) (Entered: 05/28/2003)
05/28/2003	<u>19</u>	ORDER granting <u>18</u> Motion for Extension of Time to Answer. Answer Deadline set for 6/30/03 for defendants Jon Bruning and Michael Johanns. Signed by Deputy Clerk on 5/28/2003. (KBJ) (Entered: 05/28/2003)
06/19/2003	<u>20</u>	SCHEDULING PACKET; Rule 26 Meeting Report Deadline set for 7/24/2003. Signed by Magistrate Judge Thomas D. Thalken on 6/19/2003. (PAV,) (Entered: 06/19/2003)
06/20/2003	<u>21</u>	Mail Returned as Undeliverable addressed to James D. Esseks at the wrong e-mail address of jessek@aclu.org regarding Scheduling Packet <u>20</u> . E-mail resent to jesseks@aclu.org. (KBJ) (Entered: 06/20/2003)
06/30/2003	<u>22</u>	MOTION to Dismiss by Attorney Matthew W. McNair on behalf of Defendants Jon C. Bruning, Michael O. Johanns (McNair, Matthew) (Entered: 06/30/2003)
06/30/2003	<u>23</u>	BRIEF In Support of Motion to Dismiss <u>22</u> by Attorney Matthew W. McNair on behalf of Defendants Jon C. Bruning, Michael O. Johanns (McNair, Matthew) (Entered: 06/30/2003)
07/15/2003	<u>24</u>	MOTION to Extend time to serve a brief in response to defendants' motion to dismiss for 30 days, until 8/19/03 by Attorney Robert F. Bartle on behalf of Plaintiffs ACLU Nebraska, Citizens for Equal Protection, and Nebraska Advocates for Justice and Equality (KBJ) (Entered: 07/16/2003)
07/21/2003	<u>25</u>	ORDER granting <u>24</u> Plaintiff's Motion to Extend Time to Respond to <u>22</u> Defendant's Motion to Dismiss. Signed by Judge Joseph F. Bataillon on 7/21/2003. (SMS,) (Entered: 07/21/2003)
07/24/2003	<u>26</u>	REPORT of Rule 26(f) Planning Meeting filed by plaintiffs ACLU Nebraska, et al and defendants, Jon C. Bruning, et al.(KBJ) (Entered: 07/25/2003)
07/30/2003	<u>27</u>	ORDER that the request for a stay of further proceedings pending the court's ruling on the defendants' motion to dismiss <u>22</u> is granted. If the motion to dismiss is denied, within 10 working days following the court's ruling on the motion to dismiss, counsel for the defendants shall initiate a telephone conference with the plaintiffs' counsel and the undersigned magistrate judge for the purpose of the further progression of the case. Signed by Magistrate Judge Thomas D. Thalken on 7/30/2003. (JAE,). (Entered: 07/30/2003)
08/12/2003	<u>28</u>	MOTION FOR EXTENSION of Brief by Agreement of Parties filed by Attorney Robert F. Bartle on behalf of Plaintiffs, ACLU Nebraska, Citizens for Equal Protection, and Nebraska Advocates for Justice and Equality in response to Defendant's MOTION to Dismiss <u>22</u> . (GJG,) (Entered: 08/13/2003)
08/13/2003	<u>29</u>	ORDER granting <u>28</u> Motion to Extend time to respond to <u>22</u> Defendants' Motion to Dismiss. Signed by Judge Joseph F. Bataillon on 8/13/2003. (SMS,) (Entered: 08/13/2003)
08/29/2003	<u>30</u>	BRIEF (Plaintiff's) in Opposition of Defendants' Motion to Dismiss <u>22</u> filed by Attorney Robert F. Bartle on behalf of Plaintiffs ACLU Nebraska, Citizens for Equal Protection, Nebraska Advocates for Justice and Equality (Attachments: # <u>1</u> Part 2 of 2)(GJG,) (Entered: 08/29/2003)
09/09/2003	<u>31</u>	MOTION for Leave <i>To File a Reply Brief in Support of Their Motion to Dismiss</i> by Attorney Matthew W. McNair on behalf of Defendants Jon C. Bruning, Michael O. Johanns (McNair, Matthew) (Entered: 09/09/2003)
09/09/2003	<u>32</u>	ORDER granting defendants' <u>31</u> Motion for Leave to file reply brief in support of <u>22</u> Motion to Dismiss; defendants to file reply brief on or before 9/22/2003. Signed by Judge Joseph F. Bataillon on 9/9/2003. (SMS,) Modified on 9/10/2003 (SMS,)

		to correct date brief due. (Entered: 09/09/2003)
09/22/2003	<u>33</u>	REPLY BRIEF In Support of Motion to Dismiss <u>22</u> by Attorney Matthew W. McNair on behalf of Defendants Jon C. Bruning, Michael O. Johanns (McNair, Matthew) (Entered: 09/22/2003)
09/29/2003	<u>34</u>	MOTION Motion for Oral Argument regarding Reply Brief <u>33</u> , MOTION to Dismiss <u>22</u> , Brief <u>23</u> , Brief <u>30</u> by Attorney Amy A. Miller on behalf of Plaintiffs ACLU Nebraska, Citizens for Equal Protection, Nebraska Advocates for Justice and Equality (Miller, Amy) (Entered: 09/29/2003)
11/10/2003	<u>35</u>	MEMORANDUM AND ORDER denying <u>22</u> Defendants' Motion to Dismiss. Signed by Judge Joseph F. Bataillon on 11/10/2003. (SMS,) (Entered: 11/10/2003)
11/12/2003	<u>36</u>	ORDER TO SHOW CAUSE that Attorney James D. Esseks is to register for the System. Show Cause Deadline set for 12/12/2003. Signed by Magistrate Judge Thomas D. Thalken on 11/12/2003. (JAE,) (Entered: 11/12/2003)
11/18/2003	<u>37</u>	ORDER that a telephone Planning Conference is set for 12/12/2003 03:00 PM before Magistrate Judge Thomas D. Thalken. Counsel for the defendants shall initiate the telephone conference. Signed by Magistrate Judge Thomas D. Thalken on 11/18/2003. (ADB) (Entered: 11/18/2003)
12/03/2003	<u>38</u>	<i>Defendants'</i> ANSWER to Complaint by Attorney Matthew W. McNair on behalf of Defendants Jon C. Bruning, Michael O. Johanns (McNair, Matthew) (Entered: 12/03/2003)
12/10/2003	<u>39</u>	DISCLOSURE <i>Rule 26 Disclosures</i> by Attorney Amy A. Miller on behalf of Plaintiffs ACLU Nebraska, Citizens for Equal Protection, Nebraska Advocates for Justice and Equality (Miller, Amy) (Entered: 12/10/2003)
12/10/2003	<u>40</u>	<i>Certificate of Service of Initial Disclosures</i> by Attorney Matthew W. McNair on behalf of Defendants Jon C. Bruning, Michael O. Johanns (McNair, Matthew) (Entered: 12/10/2003)
12/15/2003	<u>41</u>	ORDER that the parties shall submit a draft of a proposed stipulated record by 3/1/04; a telephone conference is set for 3/5/2004 at 10:00 AM before Magistrate Judge Thomas D. Thalken. Signed by Magistrate Judge Thomas D. Thalken on 12/15/2003. (JSF) (Entered: 12/15/2003)
02/27/2004	<u>42</u>	Joint MOTION to Extend <i>time for pretrial progression conference</i> by Attorney Robert F. Bartle on behalf of Plaintiff Citizens for Equal Protection (Bartle, Robert) (Entered: 02/27/2004)
03/01/2004	<u>43</u>	ORDER granting <u>42</u> Motion to Extend; the parties shall submit a draft of a proposed stipulated record and, if necessary, a detailed discovery plan by 4/1/04; a telephone conference will be held on 4/5/04 at 10:00 AM. Signed by Magistrate Judge Thomas D. Thalken on 3/1/2004. (JSF) (Entered: 03/01/2004)
04/07/2004	<u>44</u>	ORDER that the parties will file a joint stipulation of facts with the court on or before April 16, 2004. The parties will exchange affidavits proposed for use at trial with each other, and will file those affidavits with the court on or before April 30, 2004. The parties will exchange any counter-affidavits proposed for use at trial with each other, and will file those counter-affidavits with the court on or before May 14, 2004. Telephone Conference set for 5/28/2004 10:30 AM Central Daylight Time, before Magistrate Judge Thomas D. Thalken. Signed by Magistrate Judge Thomas D. Thalken on 4/7/2004. (JAE,) (Entered: 04/07/2004)
04/16/2004	<u>45</u>	Joint STIPULATION of <i>Facts</i> by Attorney Matthew W. McNair on behalf of Plaintiffs ACLU Nebraska, Citizens for Equal Protection, Nebraska Advocates for Justice and Equality, Defendants Jon C. Bruning, Michael O. Johanns (Attachments: # <u>1</u> Exhibit Exhibits 1-12# <u>2</u> Exhibit Exhibits 16-22# <u>3</u> Exhibit Exhibits 23-34# <u>4</u> Exhibit Exhibits 35-37)(McNair, Matthew) (Entered: 04/16/2004)
04/29/2004	<u>46</u>	NOTICE of <i>Filing and Serving Affidavits</i> by Attorney Matthew W. McNair on behalf of Defendants Jon C. Bruning, Michael O. Johanns (Attachments: # <u>1</u> Affidavit of Archbishop Elden Francis Curtiss# <u>2</u> Affidavit of Kay Orr# <u>3</u> Affidavit

		of Robert Valentine# <u>4</u> Affidavit of Jane Gronewold# <u>5</u> Affidavit of Jim Jones# <u>6</u> Affidavit of Jim Jensen# <u>7</u> Affidavit of L. Neal Erickson)(McNair, Matthew) (Entered: 04/29/2004)
04/30/2004	<u>47</u>	AFFIDAVIT–Notice of Filing Plaintiffs' Affidavits by Attorney Amy A. Miller on behalf of Plaintiffs ACLU Nebraska, Citizens for Equal Protection, Nebraska Advocates for Justice and Equality. (Attachments: # <u>1</u>)(GJG,) (Entered: 04/30/2004)
05/14/2004	<u>48</u>	NOTICE of Filing and Serving Counter–Affidavit by Attorney Matthew W. McNair on behalf of Defendants Jon C. Bruning, Michael O. Johanns (Attachments: # <u>1</u> Affidavit)(McNair, Matthew) (Entered: 05/14/2004)
06/08/2004	<u>49</u>	ORDER that unless otherwise ordered, a hearing will be held before Judge Joseph F. Bataillon on August 30, 2004, at 8:30 a.m. in Courtroom No. 3, Third Floor, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska, for the purpose of ruling on the objections to the affidavits as set forth above and for the purpose of scheduling written arguments to conclude the case based upon a trial on the record. In Court Hearing set for 8/30/2004 08:30 AM in Courtroom 3 (Omaha) before Judge Joseph F. Bataillon. Signed by Magistrate Judge Thomas D. Thalken on 6/8/2004. (ADB) (Entered: 06/08/2004)
06/30/2004	<u>50</u>	NOTICE of Filing and Serving Substituted Affidavits and Transcripts by Attorney Matthew W. McNair on behalf of Defendants Jon C. Bruning, Michael O. Johanns (Attachments: # <u>1</u> Affidavit # <u>2</u> Affidavit # <u>3</u> Affidavit # <u>4</u> Exhibit # <u>5</u> Exhibit)(McNair, Matthew) (Entered: 06/30/2004)
07/07/2004	<u>51</u>	Joint STIPULATION regarding Order,,, Set/Reset All Hearings,, <u>49</u> Regarding Pre Trial Dates by Attorney Amy A. Miller on behalf of Plaintiffs ACLU Nebraska, Citizens for Equal Protection, Nebraska Advocates for Justice and Equality, Defendants Jon C. Bruning, Michael O. Johanns (Miller, Amy) (Entered: 07/07/2004)
07/07/2004	<u>52</u>	ORDER adopting <u>51</u> the Joint Stipulation of the parties. This Court's Order of June 8, 2004 <u>49</u> , is hereby superseded. All parties shall file any objections to the affidavits on file together with any memorandum in support of such objections on or before July 15, 2004. All parties shall file any response to the objections to the affidavits on file together with any memorandum in support of such response on or before July 30, 2004. A hearing will be held before Judge Joseph F. Bataillon on August 30, 2004, at 8:30 a.m. in Courtroom No. 3, for the purpose of ruling on the objections to the affidavits and for the purpose of scheduling written arguments to conclude the case based upon a trial of the record. Signed by Magistrate Judge Thomas D. Thalken on 7/7/2004. (JAE,) (Entered: 07/07/2004)
07/15/2004	<u>53</u>	MOTION Consolidated Objections to Defendants' Evidence by Attorney Amy A. Miller on behalf of Plaintiffs ACLU Nebraska, Citizens for Equal Protection, Nebraska Advocates for Justice and Equality (Miller, Amy) (Entered: 07/15/2004)
07/15/2004	<u>54</u>	BRIEF In support of Motion for Miscellaneous Relief <u>53</u> by Attorney Amy A. Miller on behalf of Plaintiffs ACLU Nebraska, Citizens for Equal Protection, Nebraska Advocates for Justice and Equality (Attachments: # <u>1</u> Chart of Plaintiffs Objections to Evidence)(Miller, Amy) (Entered: 07/15/2004)
07/15/2004	<u>55</u>	OBJECTION To Plaintiffs' Evidence by Attorney Matthew W. McNair on behalf of Defendants Jon C. Bruning, Michael O. Johanns (McNair, Matthew) (Entered: 07/15/2004)
07/15/2004	<u>56</u>	BRIEF In Support of Objection <u>55</u> to Plaintiffs' Evidence by Attorney Matthew W. McNair on behalf of Defendants Jon C. Bruning, Michael O. Johanns (McNair, Matthew) (Entered: 07/15/2004)
07/30/2004	<u>57</u>	REPLY BRIEF to Plaintiffs' Consolidated Motion to Exclude by Attorney Matthew W. McNair on behalf of Defendants Jon C. Bruning, Michael O. Johanns (McNair, Matthew) (Entered: 07/30/2004)
07/30/2004	<u>58</u>	OBJECTION Responses to Defendants' Objections to Plaintiffs' Evidence by Attorney Amy A. Miller on behalf of Plaintiffs ACLU Nebraska, Citizens for Equal Protection, Nebraska Advocates for Justice and Equality (Miller, Amy)

		(Entered: 07/30/2004)
07/30/2004	<u>59</u>	BRIEF In Support of <i>Plaintiffs Responses to Defendants' Objections to Evidence</i> by Attorney Amy A. Miller on behalf of Plaintiffs ACLU Nebraska, Citizens for Equal Protection, Nebraska Advocates for Justice and Equality (Miller, Amy) (Entered: 07/30/2004)
08/30/2004	60	Minute Entry for proceedings held before Judge Joseph F. Bataillon at Omaha, Nebraska. Hearing held on 8/30/2004 regarding objections to exhibits and evidence. Evidence by Plaintiff and Defendant. Briefing schedule discussed. Plaintiff's brief is due on or before October 15, 2004. Defendant's brief is due on or before December 1, 2004. Plaintiff's rebuttal is due on or before December 15, 2004. Any request for sur-rebuttal shall be made in the form of a motion. Objections are taken under advisement. Written order forthcoming. Courtroom Deputy: Kathy M. Griess. Court Reporter: Allan Kuhlman. Attorneys for Plaintiff: Amy A. Miller, Fred. B. Chase and Robert F. Bartle. Attorneys for Defendant: Dale A. Comer and Matthew W. McNair. Hearing Commenced: 8:45 a.m. Hearing Concluded: 9:10 a.m. Time in Court: 25 Minutes. THIS IS A TEXT ONLY ENTRY. A PDF DOCUMENT IS NOT ATTACHED TO THIS ENTRY. (KMG) (Entered: 08/30/2004)
08/30/2004	<u>61</u>	EXHIBIT LIST from hearing held on August 30, 2004. (ADB) (Entered: 08/30/2004)
09/02/2004	<u>62</u>	ORDER denying <u>53</u> & <u>58</u> Plaintiffs' Objections to Evidence; denying <u>55</u> Defendants' Objections to Evidence; setting briefing schedule. Signed by Judge Joseph F. Bataillon on 9/2/2004. (SMS,) (Entered: 09/02/2004)
10/07/2004	<u>63</u>	TRANSCRIPT of Proceedings before Judge Bataillon, held on August 30, 2004 regarding Oral Argument. court reporter: Allan G. Kuhlman; Total Number of Billable Pages: 21. Total Number of Pages: 21. To purchase a copy of this transcript, please contact Allan G. Kuhlman at 402-661-7305. A party must file a Notice of Intent to Request Redaction within 5 business days. If a party fails to request redaction, the unredacted transcript attached to this entry will be made electronically available without redaction. (AGK,). Modified on 10/22/2004 by removing the word unredacted as a Notice of Intent to Request for Redaction was not filed (KBJ). (Entered: 10/07/2004)
10/14/2004	<u>64</u>	APPLICATION/ORDER admitting pro hac vice Attorney Sharon M. McGowan for Plaintiffs ACLU Nebraska, Citizens for Equal Protection and Nebraska Advocates for Justice and Equality. Signed by Deputy Clerk on 10/14/2004. (GJG,) (Entered: 10/14/2004)
10/15/2004	<u>65</u>	PLAINTIFF'S OPENING TRIAL BRIEF filed by Attorney Robert F. Bartle on behalf of Plaintiffs ACLU Nebraska, Citizens for Equal Protection, Nebraska Advocates for Justice and Equality (GJG,) (Entered: 10/15/2004)
10/22/2004		NOTICE of Docket Text Modification by Deputy Clerk regarding <u>63</u> TRANSCRIPT of Proceedings before Judge Bataillon, held on August 30, 2004 regarding Oral Argument. court reporter: Allan G. Kuhlman; Total Number of Billable Pages: 21. Total Number of Pages: 21. To purchase a copy of this transcript, please contact Allan G. Kuhlman at 402-661-7305. A party must file a Notice of Intent to Request Redaction within 5 business days. If a party fails to request redaction, the unredacted transcript attached to this entry will be made electronically available without redaction. (AGK,). Modified on 10/22/2004 by removing the word unredacted as a Notice of Intent to Request for Redaction was not filed (KBJ) (Entered: 10/22/2004)
12/01/2004	<u>66</u>	BRIEF by Attorney Matthew W. McNair on behalf of Defendants Jon C. Bruning, Michael O. Johanns (McNair, Matthew) (Entered: 12/01/2004)
12/15/2004	<u>67</u>	BRIEF <i>Trial Reply Brief</i> by Attorney Amy A. Miller on behalf of Plaintiffs ACLU Nebraska, Citizens for Equal Protection, Nebraska Advocates for Justice and Equality (Miller, Amy) (Entered: 12/15/2004)
12/21/2004	<u>68</u>	MOTION Oral Argument by Attorney Amy A. Miller on behalf of Plaintiffs ACLU Nebraska, Citizens for Equal Protection, Nebraska Advocates for Justice

		and Equality (Miller, Amy) (Entered: 12/21/2004)
12/22/2004	<u>69</u>	MOTION AMENDED Request for Oral Argument regarding MOTION Oral Argument <u>68</u> by Attorney Amy A. Miller on behalf of Plaintiffs ACLU Nebraska, Citizens for Equal Protection, Nebraska Advocates for Justice and Equality (Miller, Amy) (Entered: 12/22/2004)
12/23/2004	<u>70</u>	ORDER denying <u>68</u> <u>69</u> Motions for Oral Argument. Signed by Judge Joseph F. Bataillon on 12/23/2004. (SMS,) (Entered: 12/23/2004)
05/12/2005	<u>71</u>	MEMORANDUM AND ORDER declaring Section 29 of Nebraska Constitution unconstitutional; attorney fees and costs awarded to plaintiffs. Signed by Judge Joseph F. Bataillon on 5/12/2005. (SMS,) (Entered: 05/12/2005)
05/12/2005	<u>72</u>	JUDGMENT pursuant to the Memorandum and Order <u>71</u> judgment is entered in favor of the plaintiffs and against the defendants. Signed by Judge Joseph F. Bataillon on 5/12/2005. (JAE,) (Entered: 05/13/2005)
06/09/2005	<u>73</u>	NOTICE OF APPEAL regarding Judgment, Terminated Case <u>72</u> by Attorney Matthew W. McNair on behalf of Defendants Jon C. Bruning, Michael O. Johanns, Dave Heineman, Jon C. Bruning, Dave Heineman. (McNair, Matthew) (Entered: 06/09/2005)
06/09/2005		APPEAL fee paid by the Nebraska Attorney General's Office, with receipt number 406922 in the amount of \$255.00 regarding Notice of Appeal to USCA, <u>73</u> . THIS IS A TEXT ONLY ENTRY. A PDF DOCUMENT IS NOT ATTACHED TO THIS ENTRY. (JAR) (Entered: 06/09/2005)
06/09/2005	<u>74</u>	NOTIFICATION OF APPEAL AND NOA SUPPLEMENT by Clerk to USCA regarding Judgment, Terminated Case <u>72</u> , Notice of Appeal to USCA, <u>73</u> , Memorandum and Order <u>71</u> , Appeal Fee Paid. Notice of Appeal filed on 6/9/05 on behalf of all Defendants(KBJ) (Entered: 06/09/2005)
06/09/2005		***Appeal Receipt of Notice of Appeal and supporting documents transmitted to USCA on: Thu Jun 9 13:29:13 CDT 2005 (KBJ,) (Entered: 06/09/2005)
06/10/2005	<u>75</u>	SCHEDULING LETTER from USCA – 8th Circuit as to Notice of Appeal to USCA, <u>73</u> ; Appellate Docket Number: 05–2604. Transcript Designation set for 7/20/2005. (Attachments: # <u>1</u> Transmittal Letter)(KBJ) (Entered: 06/10/2005)
06/13/2005	<u>76</u>	MOTION for Attorney Fees by Attorney Amy A. Miller on behalf of Plaintiffs ACLU Nebraska, Citizens for Equal Protection, Nebraska Advocates for Justice and Equality (Attachments: # <u>1</u> Affidavit Robert Bartle# <u>2</u> Affidavit David S. Buckel affidavit# <u>3</u> Affidavit Fred Brian Chase Affidavit# <u>4</u> Affidavit Tamara Lange Affidavit# <u>5</u> Affidavit Sharon McGowan Affidavit# <u>6</u> Affidavit Amy Miller Affidavit# <u>7</u> Affidavit Alan Peterson Affidavit# <u>8</u> Affidavit Anna Rich Affidavit# <u>9</u> Affidavit Corey Stull Affidavit)(Miller, Amy) (Entered: 06/13/2005)
06/15/2005	<u>77</u>	TRANSCRIPT SENT TO USCA – 8th Circuit regarding Transcript <u>63</u> . (ADB) (Entered: 06/15/2005)
06/16/2005	<u>78</u>	REQUEST FOR TRANSCRIPT (McNair, Matthew) (Entered: 06/16/2005)
06/24/2005	<u>79</u>	RECEIPT signed by clerk of the 8th Circuit Court of Appeals (05–2604) acknowledging receipt of the Transcript from hearing held 8/30/04. (KBJ) (Entered: 06/24/2005)
07/13/2005	<u>80</u>	BRIEF In Response to Motion for Attorney Fees,, <u>76</u> by Attorney Matthew W. McNair on behalf of Defendants Jon C. Bruning, Dave Heineman(McNair, Matthew) (Entered: 07/13/2005)
08/01/2005	<u>81</u>	ORDER granting <u>76</u> Plaintiffs' Motion for Attorney Fees in the amount of \$156,960.00 and costs in the amount of \$271.70. Signed by Judge Joseph F. Bataillon on 8/1/2005. (SMS,) (Entered: 08/01/2005)
08/02/2005	<u>82</u>	NOTICE OF APPEAL (<i>Amended</i>) by Attorney Matthew W. McNair on behalf of Defendants Jon C. Bruning, Dave Heineman. (McNair, Matthew) (Entered: 08/02/2005)

08/02/2005	<u>83</u>	MOTION to Stay <i>Proceedings to Enforce Judgment Pending Appeal</i> by Attorney Matthew W. McNair on behalf of Defendants Jon C. Bruning, Dave Heineman(McNair, Matthew) (Entered: 08/02/2005)
08/09/2005	<u>84</u>	ORDER – This matter is before the court on defendants' unopposed Motion for Stay of Proceedings to Enforce Judgment Pending Appeal, Filing No. <u>83</u> . For good cause shown, the motion is granted and the enforcement of this court's order awarding attorney fees and costs to plaintiffs, Filing No. <u>81</u> , is stayed pending resolution of the appeal of this matter to the Eighth Circuit Court of Appeals. Signed by Judge Joseph F. Bataillon on 8/9/2005. (TJS) (Entered: 08/09/2005)
08/09/2005	<u>85</u>	Transmittal Letter to USCA 8th Circuit (05–2604) of sending two copies of the Order on Motion for Attorney Fees <u>81</u> , Amended Notice of Appeal to USCA <u>82</u> , Order <u>84</u> , and certified docket sheet. (JAE,) (Entered: 08/09/2005)
08/11/2005	<u>86</u>	Letter by Clerk – USCA – has received certified copies of an amended notice of appeal and docket entries from the Clerk of the United States District Court. We have filed the amended notice of appeal docketed in this court on 6/10/05. (TJS) (Entered: 08/11/2005)
07/14/2006	<u>87</u>	COPY of Opinion of USCA – 8th Circuit (05–2604) regarding Notice of Appeal to USCA <u>73</u> , Notice of Appeal to USCA <u>82</u> ; The judgment of the district court is reversed and the case is remanded with directions to dismiss Appellees' complaint with prejudice. Given our decision on the merits, Appellees are no longer "prevailing parties." The district court's award of attorneys fees is therefore reversed. See <i>Buckhannon Bd. & Care Home, Inc. v. W. Va. Dept. of Health & Human Resources</i> , 532 U.S. 598, 604 (2001). (Attachments: # <u>1</u> Letter from Clerk)(PCV,) (Entered: 07/14/2006)
07/17/2006	<u>88</u>	Paper COPY of Opinion of USCA – 8th Circuit (05–2604) regarding Notice of Appeal to USCA <u>73</u> <u>82</u> . The judgment of the district court is reversed and the case is remanded with directions to dismiss Appellees' complaint with prejudice. Given the circuit's decision on the merits, Appellees are no longer "prevailing parties." The district court's award of attorneys fees is therefore reversed. (Attachments: # <u>1</u> Transmittal Letter)(JAE,) (Entered: 07/17/2006)
07/31/2006	<u>89</u>	RECORD on appeal returned from USCA – 8th Circuit (05–2604) regarding Notice of Appeal to USCA <u>73</u> , Notice of Appeal to USCA <u>82</u> , returning the electronically generated transcript <u>63</u> to the district court. (JAE,) (Entered: 07/31/2006)
08/30/2006	<u>90</u>	COPY of Order from USCA – 8th Circuit (05–2604) that the petition for rehearing en banc is denied. The petition for rehearing by the panel is also denied. (Attachments: # Letter from Clerk(1))(PCV,) (Entered: 08/30/2006)
09/29/2006	<u>91</u>	Letter by Clerk USCA–8th Circuit (05–2604) that the mandate is being sent to the district court regarding Notice of Appeal to USCA <u>73</u> , Notice of Appeal to USCA <u>82</u> . (ADB) (Entered: 10/02/2006)
10/04/2006	<u>92</u>	CERTIFIED copy of Opinion of USCA – 8th Circuit (05–2604) regarding Notice of Appeal to USCA <u>82</u> . The judgment of the district court is reversed and the case is remanded with directions to dismiss Appellees' complaint with prejudice. Given the circuit's decision on the merits, Appellees are no longer "prevailing parties." The district court's award of attorneys fees is therefore reversed. (Attachments: # <u>1</u> Cover Letter)(GJG,) (Entered: 10/04/2006)
10/04/2006	<u>93</u>	MANDATE/JUDGMENT from USCA – 8th Circuit (05–2604) reversing the decision of the District Court regarding Notice of Appeal to USCA <u>82</u> . It is hereby ordered and adjudged that the judgment of the district court in this cause is reversed and the cause is remanded to the district court for proceedings consistent with the opinion <u>92</u> of this court. (GJG,) (Entered: 10/04/2006)
01/04/2007	<u>94</u>	JUDGMENT pursuant to the order of the Eighth Circuit, regarding Opinion (Certified Copy) of USCA, <u>92</u> , this case is dismissed with prejudice. Judgment is entered in favor of the defendants and against the plaintiffs. Ordered by Judge Joseph F. Bataillon. (PCV,) (Entered: 01/04/2007)