

**US District Court Electronic Case Filing System  
District of Utah (Central)  
CIVIL DOCKET FOR CASE #: 2:13-cv-00217-RJS**

Kitchen et al v. Herbert et al  
Assigned to: Judge Robert J. Shelby  
Case in other court: Supreme Court of the United States,  
14-00124  
Cause: 28:2201 Declaratory Judgment

Date Filed: 03/25/2013  
Date Terminated: 12/20/2013  
Jury Demand: None  
Nature of Suit: 950 Constitutional – State  
Statute  
Jurisdiction: Federal Question

**Plaintiff**

**Derek Kitchen**  
*individually*

represented by **Peggy A. Tomsic**  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**James E. Magleby**  
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**Plaintiff**

**Moudi Sbeity**  
*individually*

represented by **Peggy A. Tomsic**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**James E. Magleby**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

**Jennifer F. Parrish**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Karen Archer**  
*individually*

represented by **Peggy A. Tomsic**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**James E. Magleby**  
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**Jennifer F. Parrish**  
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*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Kate Call**  
*individually*

represented by **Peggy A. Tomsic**  
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*LEAD ATTORNEY*  
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**James E. Magleby**  
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**Jennifer F. Parrish**  
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**Plaintiff**

**Laurie Wood**  
*individually*

represented by **Peggy A. Tomsic**  
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*LEAD ATTORNEY*  
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**James E. Magleby**  
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**Plaintiff**

**Kody Partridge**  
*individually*

represented by **Peggy A. Tomsic**  
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*LEAD ATTORNEY*  
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**James E. Magleby**  
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**Jennifer F. Parrish**  
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*ATTORNEY TO BE NOTICED*

V.

**Defendant**

**Gary R. Herbert**  
*in his official capacity as Governor of Utah*

represented by **Philip S. Lott**  
UTAH ATTORNEY GENERAL'S  
OFFICE (160-6-140856)  
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**Stanford Edward Purser**

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**Defendant**

**John Swallow**  
*in his official capacity as Attorney  
General of Utah*

represented by **Philip S. Lott**  
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*LEAD ATTORNEY  
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**Stanford Edward Purser**  
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**Defendant**

**Sherrie Swensen**  
*in her official capacity as Clerk of Salt  
Lake County*

represented by **Darcy M. Goddard**  
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**Amicus**

**American Civil Liberties Union  
Foundation**

represented by **John M. Mejia**  
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**Amicus**

**ACLU of Utah Foundation, Inc.**

represented by **John M. Mejia**  
(See above for address)

*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

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**Amicus**

**Lynn D. Wardle**

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**Amicus**

**William C. Duncan**

represented by **Byron J. Babione**  
(See above for address)  
*LEAD ATTORNEY  
PRO HAC VICE  
ATTORNEY TO BE NOTICED*

**Frank D. Mylar**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

**Amicus**

**Bryce J. Christensen**

represented by **Byron J. Babione**  
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PRO HAC VICE  
ATTORNEY TO BE NOTICED*

**Frank D. Mylar**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

**Amicus**

**Joseph P. Price**

represented by **Byron J. Babione**  
(See above for address)  
*LEAD ATTORNEY  
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ATTORNEY TO BE NOTICED*

**Frank D. Mylar**  
(See above for address)

LEAD ATTORNEY  
ATTORNEY TO BE NOTICED

V.

**Movant**

**National Center for Lesbian Rights**  
TERMINATED: 12/05/2013

represented by **Kathryn D. Kendell**  
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LEAD ATTORNEY  
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
03/25/2013	<u>1</u>	Case has been indexed and assigned to Judge Robert J. Shelby. Plaintiffs Karen Archer, Kate Call, Derek Kitchen, Kody Partridge, Moudi Sbeity, Laurie Wood is directed to E-File the <u>Complaint and cover sheet</u> (found under Complaints and Other Initiating Documents) and pay the filing fee of \$ 350.00 by the end of the business day. <b>NOTE: The court will not have jurisdiction until the opening document is electronically filed and the filing fee paid in the CM/ECF system.</b> Civil Summons may be issued electronically. Prepare the summons using the courts <u>PDF version</u> and email it to <a href="mailto:utdecf_clerk@utd.uscourts.gov">utdecf_clerk@utd.uscourts.gov</a> for issuance. (jds) (Entered: 03/25/2013)
03/25/2013	<u>2</u>	COMPLAINT against All Defendants (Filing fee \$ 350, receipt number 1088-1799700), filed by Kody Partridge, Karen Archer, Laurie Wood, Derek Kitchen, Kate Call, Moudi Sbeity. Assigned to Judge Robert J. Shelby (Magleby, James) (Entered: 03/25/2013)
03/27/2013	<u>3</u>	<b>**RESTRICTED DOCUMENT**</b> Summons Issued Electronically as to Gary R. Herbert. Instructions to Counsel: 1. Click on the document number. 2. If you are prompted for an ECF login, enter your 'Attorney' login to CM/ECF. 3. Print the issued summons for service. (rls) (Entered: 03/27/2013)
03/27/2013	<u>4</u>	<b>**RESTRICTED DOCUMENT**</b> Summons Issued Electronically as to John Swallow. Instructions to Counsel: 1. Click on the document number. 2. If you are prompted for an ECF login, enter your 'Attorney' login to CM/ECF. 3. Print the issued summons for service. (rls) (Entered: 03/27/2013)
03/27/2013	<u>5</u>	<b>**RESTRICTED DOCUMENT**</b> Summons Issued Electronically as to Sherrie Swensen. Instructions to Counsel: 1. Click on the document number. 2. If you are prompted for an ECF login, enter your 'Attorney' login to CM/ECF. 3. Print the issued summons for service. (rls) (Entered: 03/27/2013)
03/28/2013	<u>6</u>	<b>**RESTRICTED DOCUMENT**</b> Summons Issued Electronically as to Gary R. Herbert. Instructions to Counsel: 1. Click on the document number. 2. If you are prompted for an ECF login, enter your 'Attorney' login to CM/ECF. 3. Print the issued summons for service. (rls) (Entered: 03/28/2013)
03/29/2013	<u>7</u>	<b>**RESTRICTED DOCUMENT**</b> SUMMONS Returned Executed by Kody Partridge, Karen Archer, Laurie Wood, Derek Kitchen, Kate Call, Moudi Sbeity as to Gary R. Herbert served on 3/28/2013, answer due 4/18/2013. (Magleby, James)

		(Entered: 03/29/2013)
03/29/2013	<u>8</u>	<b>**RESTRICTED DOCUMENT**</b> SUMMONS Returned Executed by Kody Partridge, Karen Archer, Laurie Wood, Derek Kitchen, Kate Call, Moudi Sbeity as to John Swallow served on 3/27/2013, answer due 4/17/2013. (Magleby, James) (Entered: 03/29/2013)
03/29/2013	<u>9</u>	<b>**RESTRICTED DOCUMENT**</b> SUMMONS Returned Executed by Kody Partridge, Karen Archer, Laurie Wood, Derek Kitchen, Kate Call, Moudi Sbeity as to Sherrie Swensen served on 3/27/2013, answer due 4/17/2013. (Magleby, James) (Entered: 03/29/2013)
04/23/2013	<u>10</u>	NOTICE of Appearance by Philip S. Lott on behalf of Gary R. Herbert, John Swallow (Lott, Philip) (Entered: 04/23/2013)
05/07/2013	<u>11</u>	NOTICE of Appearance by Stanford Edward Purser on behalf of Gary R. Herbert, John Swallow (Purser, Stanford) (Entered: 05/07/2013)
05/28/2013	<u>12</u>	NOTICE of Appearance by Darcy M. Goddard on behalf of Sherrie Swensen (Goddard, Darcy) (Entered: 05/28/2013)
05/29/2013	<u>13</u>	NOTICE of Appearance by Ralph E. Chamness on behalf of Sherrie Swensen (Chamness, Ralph) (Entered: 05/29/2013)
05/29/2013	<u>14</u>	Joint MOTION to Stay and Memorandum in Support <i>to Stay Action</i> filed by Defendants Gary R. Herbert, John Swallow. (Attachments: # <u>1</u> Text of Proposed Order)(Lott, Philip) (Entered: 05/29/2013)
05/31/2013	<u>15</u>	<b>ORDER granting <u>14</u> Motion to Stay. Signed by Judge Robert J. Shelby on 05/31/2013. (tls)</b> (Entered: 05/31/2013)
08/12/2013	<u>16</u>	<i>Utah State Defendants'</i> ANSWER to Complaint filed by Gary R. Herbert, John Swallow.(Lott, Philip) (Entered: 08/12/2013)
08/12/2013	<u>17</u>	<i>Defendant Sherrie Swensen's</i> ANSWER to Complaint filed by Sherrie Swensen.(Goddard, Darcy) (Entered: 08/12/2013)
08/14/2013	<u>18</u>	NOTICE OF ADR, e-mailed or mailed to Plaintiffs Karen Archer, Kate Call, Derek Kitchen, Kody Partridge, Moudi Sbeity, Laurie Wood, Defendants Gary R. Herbert, John Swallow, Sherrie Swensen. (tls) (Entered: 08/14/2013)
08/14/2013	<u>19</u>	NOTICE FROM THE COURT re: Initial Scheduling The court's IPT Clerk will now set the case for the Initial Pretrial Scheduling Conference (tls) (Entered: 08/14/2013)
08/15/2013	<u>20</u>	<b><u>NOTICE OF INITIAL PRETRIAL CONFERENCE:</u></b> (Notice generated by Jennifer Stout, IPT Clerk) The <b>Attorneys Planning Meeting Report</b> and <b>Proposed Scheduling Order</b> forms, available on the court web site at <a href="http://www.utd.uscourts.gov/documents/formpage.html">http://www.utd.uscourts.gov/documents/formpage.html</a> , should be prepared 21 days before the Initial Pretrial Conference hearing date.  <b><u>NOTICE TO COUNSEL.</u></b> The Court <i>may</i> enter a scheduling order and vacate the hearing <i>if</i> counsel (a) file a stipulated <b>Attorneys Planning Meeting Report</b> ; and (b) e-mail a <b>Proposed Scheduling Order</b> to <a href="mailto:ipt@utd.uscourts.gov">ipt@utd.uscourts.gov</a> 21 days before the scheduled hearing. See instructions at <a href="http://www.utd.uscourts.gov/documents/ipt.html">http://www.utd.uscourts.gov/documents/ipt.html</a>  If counsel or the parties would like to participate by phone they must contact chambers at least two days in advance at <a href="mailto:utdecf_furse@utd.uscourts.gov">utdecf_furse@utd.uscourts.gov</a> to make arrangements.  <b>Initial Pretrial Conference set for 10/9/2013 10:30 AM in Room 477 before Magistrate Judge Evelyn J. Furse.</b> (jds) (Entered: 08/15/2013)
08/21/2013	<u>21</u>	<b><u>NOTICE OF HEARING:</u></b> (Notice generated by Mary Jane McNamee) Status Conference set for 8/27/2013 at 1:30 PM in Room 220 before Judge Robert J.



		Shelby. (mjm) (Entered: 08/21/2013)
08/22/2013		Deadlines/Hearings terminated. The Initial Pretrial Conference previously set for 10/9/2013 is vacated. (mjm) (Entered: 08/22/2013)
08/23/2013	<u>22</u>	NOTICE OF FILING filed by Plaintiffs Karen Archer, Kate Call, Derek Kitchen, Kody Partridge, Moudi Sbeity, Laurie Wood. (Tomsic, Peggy) (Entered: 08/23/2013)
08/26/2013	<u>23</u>	RESPONSE re <u>22</u> Notice of Filing, <i>Scheduling Issues</i> filed by Gary R. Herbert, John Swallow. (Lott, Philip) (Entered: 08/26/2013)
08/27/2013	27	Minute Entry for proceedings held before Judge Robert J. Shelby: Status Conference held on 8/27/2013. The court hears from cnsl and sets the following dates/deadlines: 1. This case will first proceed with motions for summary judgment. 2. The court has provided Plaintiffs with the option of two briefing schedules, depending on whether Plaintiffs elect to file a motion for summary judgment. 3. Plaintiffs have elected to file a motion for summary judgment. 4. Therefore, motions for summary judgment, to be filed by any party, are due on or before October 11, 2013. 5. Any responses to motions for summary judgment, to be filed by any party, are due on or before November 22, 2013. 6. A hearing on all motions for summary judgment is set for December 4, 2013, at 10:00 a.m., in Room 220, before the Honorable Robert J. Shelby. 7. To the extent that the courts rulings on the motions for summary judgment are not dispositive, a status and scheduling conference is also set for January 7, 2014, at 10:00 a.m., in Room 220, before the Honorable Robert J. Shelby. ( Motion Hearing set for 12/4/2013 at 10:00 AM in Room 220 before Judge Robert J. Shelby.). Mr. Magleby will prepare and submit an order. Attorney for Plaintiff: James Magleby, Jennifer Parrish, Peggy Tomsic; Attorney for Defendant: Philip Lott, Stanford Purser – rep State dfts; Darcy Goddard, Ralph Chamness – rep Sherrie Swensen. Court Reporter: Ray Fenlon. (mjm) (Entered: 09/10/2013)
09/04/2013	<u>24</u>	<b>ORDER. Summary Judgment Motions due by 10/11/2013. Responses to Motions for Summary Judgment due by 11/22/2013. Motion for Summary Judgment Hearing set for 12/4/2013 10:00 AM in Room 220. Status Report and Scheduling Conference set for 1/7/2014 10:00 AM in Room 220 before Judge Robert J. Shelby. Signed by Judge Robert J. Shelby on 09/04/2013. (tls)</b> (Entered: 09/04/2013)
09/05/2013	<u>25</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of STATUS CONFERENCE held on AUGUST 27, 2013 before Judge ROBERT J. SHELBY. Court Reporter/Transcriber RAYMOND P. FENLON, Telephone number (801) 809-4634.  <b>NOTICE RE REDACTION OF TRANSCRIPTS: Within 7 business days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the parties intent to redact personal data identifiers from the electronic transcript of the court proceeding. The policy and forms are located on the court's website at <a href="http://www.utd.uscourts.gov">www.utd.uscourts.gov</a>. Please read this policy carefully. If no Notice of Intent to Redact is filed within the allotted time, this transcript will be made electronically available on the date set forth below.</b>  Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 9/26/2013. Redacted Transcript Deadline set for 10/7/2013. Release of Transcript Restriction set for 12/4/2013. (asp) Modified on 12/4/2013 by removing restricted text(las). (Entered: 09/05/2013)
10/04/2013	<u>28</u>	Ex Parte (Not Sealed) MOTION for Leave to File Excess Pages <i>Plaintiffs' Motion for Summary Judgment</i> filed by Plaintiffs Karen Archer, Kate Call, Derek Kitchen, Kody Partridge, Moudi Sbeity, Laurie Wood. (Attachments: # <u>1</u> Text of Proposed Order)(Parrish, Jennifer) (Entered: 10/04/2013)
10/08/2013	<u>29</u>	<b>ORDER granting <u>28</u> Motion for Leave to File Excess Pages. Signed by Judge Robert J. Shelby on 10/07/2013. (asp)</b> (Entered: 10/08/2013)

10/08/2013	<u>30</u>	Defendant's MOTION for Leave to File Overlength Motion for Summary Judgment ( <i>Unopposed</i> ) filed by Defendants Gary R. Herbert, John Swallow. (Attachments: # <u>1</u> Text of Proposed Order)(Lott, Philip) (Entered: 10/08/2013)
10/08/2013	<u>31</u>	<b>ORDER granting <u>30</u> State Defendants' Motion for Leave to File Overlength Motion for Summary Judgment. Signed by Judge Robert J. Shelby on 10/08/2013. (tls)</b> (Entered: 10/08/2013)
10/11/2013	<u>32</u>	Plaintiff's MOTION for Summary Judgment and Memorandum in Support filed by Plaintiffs Karen Archer, Kate Call, Derek Kitchen, Kody Partridge, Moudi Sbeity, Laurie Wood. (Attachments: # <u>1</u> Appendix, # <u>2</u> Exhibit 1 Declaration of J.F. Parrish, # <u>3</u> Exhibit 2 Declaration of D. Kitchen, # <u>4</u> Exhibit 3 Declaration of M. Sbeity, # <u>5</u> Exhibit 4 Declaration of K. Archer, # <u>6</u> Exhibit 5 Declaration of K. Call, # <u>7</u> Exhibit 6 Declaration of L. Wood, # <u>8</u> Exhibit 7 Declaration of K. Partridge)(Tomsic, Peggy) (Entered: 10/11/2013)
10/11/2013	<u>33</u>	Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow. (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>34</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tabs 1-17</i> . (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>35</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tabs 18-21a</i> . (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>36</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tabs 21b-27a</i> . (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>37</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tabs 27b-28a</i> . (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>38</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tabs 28b-33a</i> . (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>39</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tabs 33b-35a</i> . (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>40</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tabs 35b-38a</i> . (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>41</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tabs 38a-39</i> . (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>42</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tabs 40-45a</i> . (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>43</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tabs 45b-48</i> . (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>44</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tabs 49-52a</i> . (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>45</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tabs 52b-59a</i> . (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>46</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tabs</i>



		59b-61a. (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>47</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tab</i> 61b-65a. (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>48</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tab</i> 65b-67a. (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>49</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tab</i> 67b. (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>50</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tab</i> 68a. (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>51</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tab</i> 68b-70. (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>52</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tab</i> 71a. (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>53</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tab</i> 71b-72. (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>54</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tab</i> 73a. (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>55</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tab</i> 73b-74a. (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>56</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tab</i> 74b. (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>57</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tab</i> 74c. (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>58</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tab</i> 74d. (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>59</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tab</i> 74e. (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>60</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tab</i> 74f. (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>61</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tab</i> 74g. (Lott, Philip) (Entered: 10/11/2013)
10/11/2013	<u>62</u>	APPENDIX to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Tab</i> 74h. (Lott, Philip) (Entered: 10/11/2013)
10/15/2013	<u>63</u>	ERRATA to <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow <i>Appendix Tab</i> 75. (Lott, Philip) (Entered: 10/15/2013)

10/17/2013	<u>64</u>	MOTION for Admission Pro Hac Vice of Joshua Block , Registration fee \$ 15, receipt number 1088-1928890, filed by Movants ACLU of Utah Foundation, Inc., American Civil Liberties Union Foundation. (Attachments: # <u>1</u> Exhibit A, Application, # <u>2</u> Exhibit B, ECF Registration, # <u>3</u> Text of Proposed Order)(Mejia, John) (Entered: 10/17/2013)
10/17/2013	<u>65</u>	MOTION to File Amicus Brief by ACLU and ACLU of Utah filed by Movants ACLU of Utah Foundation, Inc., American Civil Liberties Union Foundation. (Attachments: # <u>1</u> Exhibit A, Memorandum of Law)(Mejia, John) (Entered: 10/17/2013)
10/17/2013	<u>66</u>	<b>ORDER granting <u>64</u> Motion for Admission Pro Hac Vice of Joshua A. Block for ACLU of Utah Foundation, Inc. Joshua A. Block for American Civil Liberties Union Foundation.</b> <i>Attorneys admitted Pro Hac Vice may download a copy of the District of Utahs local rules from the courts web site at <a href="http://www.utd.uscourts.gov">http://www.utd.uscourts.gov</a></i> <b>. Signed by Judge Robert J. Shelby on 10/17/2013. (tls)</b> (Entered: 10/17/2013)
10/18/2013	<u>67</u>	<b>NOTICE OF HEARING ON MOTION</b> re: <u>32</u> Plaintiff's MOTION for Summary Judgment and Memorandum in Support , <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support : (Notice generated by Mary Jane McNamee) Motion Hearing set for 12/4/2013 at 10:00 AM in Room 220 before Judge Robert J. Shelby. (mjm) (Entered: 10/18/2013)
10/18/2013	<u>68</u>	<b>ORDER granting <u>65</u> Motion to File Amicus Brief. Signed by Judge Robert J. Shelby on 10/18/2013. (tls)</b> (Entered: 10/18/2013)
10/21/2013	<u>69</u>	NOTICE of Appearance by Frank D. Mylar on behalf of Bryce J. Christensen, William C. Duncan, Joseph P. Price, Lynn D. Wardle (Mylar, Frank) (Entered: 10/21/2013)
10/21/2013	<u>70</u>	Plaintiff's MOTION Regarding Amici Curiae filed by Plaintiffs Karen Archer, Kate Call, Derek Kitchen, Kody Partridge, Moudi Sbeity, Laurie Wood. (Tomsic, Peggy) (Entered: 10/21/2013)
10/21/2013	<u>71</u>	MOTION for Admission Pro Hac Vice of Byron J. Babione , Registration fee \$ 15, receipt number 1088-1931080, filed by Movants Bryce J. Christensen, William C. Duncan, Joseph P. Price, Lynn D. Wardle. (Attachments: # <u>1</u> Exhibit Application for Admission Pro Hac Vice, # <u>2</u> Text of Proposed Order)(Mylar, Frank) (Entered: 10/21/2013)
10/21/2013	<u>72</u>	<del>ERROR: NOT A MOTION - MOTION for Leave to File Brief of Amici Curiae Professors Lynn D. Wardle, William C. Duncan, Bryce J. Christensen and Joseph P. Price in Support of Defendants filed by Movants Bryce J. Christensen, William C. Duncan, Joseph P. Price, Lynn D. Wardle. (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Exhibit [Proposed] Brief of Amici Curiae Professors)(Mylar, Frank)</del> Modified on 10/22/2013: added error text (alt) (Entered: 10/21/2013)
10/21/2013	<u>73</u>	MOTION for Leave to File BRIEF OF AMICI CURIAE PROFESSORS IN SUPPORT OF STATE DEFENDANTS MOTION FOR SUMMARY JUDGMENT filed by Movants Bryce J. Christensen, William C. Duncan, Joseph P. Price, Lynn D. Wardle. (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Exhibit [Proposed] Brief of Amici Curiae Professors)(Mylar, Frank) Modified on 10/22/2013: corrected carry-forward text (alt) (Entered: 10/21/2013)
10/22/2013	<u>74</u>	<b>ORDER granting <u>71</u> Motion for Admission Pro Hac Vice of Byron J. Babione for Bryce J. Christensen, William C. Duncan, Joseph P. Price, Lynn D. Wardle.</b> <i>Attorneys admitted Pro Hac Vice may download a copy of the District of Utahs local rules from the courts web site at <a href="http://www.utd.uscourts.gov">http://www.utd.uscourts.gov</a></i> <b>Signed by Judge Robert J. Shelby on 10/21/13 (alt)</b> (Entered: 10/22/2013)
10/22/2013	<u>75</u>	NOTICE OF DEFICIENCY re <u>72</u> MOTION for Leave to File Brief of Amici Curiae Professors Lynn D. Wardle, William C. Duncan, Bryce J. Christensen and Joseph P. Price in Support of Defendants. The attached document is not a motion. The entry has been terminated. (alt) (Entered: 10/22/2013)
10/22/2013	<u>76</u>	Amicus in Support of Plaintiffs' Motion for Summary Judgment BRIEF re <u>32</u> Plaintiff's MOTION for Summary Judgment and Memorandum in Support filed by

		Amicus Parties ACLU of Utah Foundation, Inc., American Civil Liberties Union Foundation. (Mejia, John) (Entered: 10/22/2013)
10/22/2013	<u>77</u>	<b>ORDER granting <u>73</u> Motion for Leave to File Amici Curiae Brief. Signed by Judge Robert J. Shelby on 10/21/13 (alt)</b> (Entered: 10/22/2013)
10/22/2013	<u>78</u>	<b>ORDER denying <u>70</u> Motion to Disallow Third Parties to File Amicus Briefs. Signed by Judge Robert J. Shelby on 10/21/13 (alt)</b> (Entered: 10/22/2013)
10/22/2013	<u>79</u>	Brief of Amici Curiae Professors Lynn D. Wardle, William C. Duncan, Bryce Christensen and Joseph P. Price in Support of Defendants BRIEF re <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Amicus Parties Bryce J. Christensen, William C. Duncan, Joseph P. Price, Lynn D. Wardle. (Mylar, Frank) (Entered: 10/22/2013)
11/19/2013	<u>80</u>	Plaintiff's MOTION for Leave to File Excess Pages and Memorandum in Support filed by Plaintiffs Karen Archer, Kate Call, Derek Kitchen, Kody Partridge, Moudi Sbeity, Laurie Wood. (Attachments: # <u>1</u> Text of Proposed Order)(Parrish, Jennifer) (Entered: 11/19/2013)
11/20/2013	<u>81</u>	Defendant's MOTION for Leave to File Excess Pages <i>Def. Unopposed Motion for Leave to File overlength Response to Pl. Motion for S.J.</i> filed by Defendants Gary R. Herbert, John Swallow. (Attachments: # <u>1</u> Text of Proposed Order)(Lott, Philip) (Entered: 11/20/2013)
11/21/2013	<u>82</u>	<b>ORDER granting <u>81</u> State Defendants' Unopposed Motion for Leave to File Overlength Response to Plaintiffs' Motion for Summary Judgment. Signed by Judge Robert J. Shelby on 11/21/2013. (tls)</b> (Entered: 11/21/2013)
11/21/2013	<u>83</u>	<b>ORDER granting <u>80</u> Plaintiffs' Unopposed Motion for Leave to File Overlength Plaintiffs' Opposition to Motion of the Governor and Attorney General for Summary Judgment. Signed by Judge Robert J. Shelby on 11/21/2013. (tls)</b> (Entered: 11/21/2013)
11/22/2013	<u>84</u>	RESPONSE to Motion re <u>32</u> Plaintiff's MOTION for Summary Judgment and Memorandum in Support filed by Defendants Gary R. Herbert, John Swallow. (Lott, Philip) (Entered: 11/22/2013)
11/22/2013	<u>85</u>	Plaintiff's MEMORANDUM in Opposition re <u>33</u> Defendant's MOTION for Summary Judgment and Memorandum in Support filed by Plaintiffs Karen Archer, Kate Call, Derek Kitchen, Kody Partridge, Moudi Sbeity, Laurie Wood. (Attachments: # <u>1</u> Appendix Index, # <u>2</u> Exhibit 1 – Decl of MVL Badgett PhD, # <u>3</u> Exhibit 2 – Decl of G Chauncey PhD, # <u>4</u> Exhibit 3 – Decl of NF Cott PhD, # <u>5</u> Exhibit 4 – Decl of CJ Patterson PhD, # <u>6</u> Exhibit 5 – Decl of LA Peplau PhD, # <u>7</u> Exhibit 6 – Supp Decl of LA Peplau PhD, # <u>8</u> Exhibit 7 – Decl of GM Segura PhD, # <u>9</u> Exhibit 8 – Brief of US in Windsor, # <u>10</u> Exhibit 9 – Brief of BLAG in Windsor, # <u>11</u> Exhibit 10 – Amici Curiae Brief of APA et al. in Windsor, # <u>12</u> Exhibit 11 – Amicus Curiae Brief of ASA in Windsor, # <u>13</u> Exhibit 12 – Amici Curiae Brief of Con Law Scholars in Windsor, # <u>14</u> Exhibit 13 – Amici Curiae Brief of 15 States in Sevcik v Sandoval, # <u>15</u> Exhibit 14 – Feb 24, 2004 Transcript, Utah House of Representatives (Excerpts))(Tomsic, Peggy) (Entered: 11/22/2013)
12/02/2013	<u>86</u>	MOTION to File Amicus Brief by National Center for Lesbian Rights and Memorandum in Support filed by Movant National Center for Lesbian Rights. (Attachments: # <u>1</u> Exhibit Amicus Brief)(Kendell, Kathryn) (Entered: 12/02/2013)
12/02/2013	87	Minute Entry for proceedings held before Judge Robert J. Shelby: Telephone Conference held on 12/2/2013. The Motion to File Amicus Brief <u>86</u> submitted by the National Center for Lesbian Rights is DENIED WITHOUT PREJUDICE to refile in the event that the lawsuit is not resolved on the pending Motions for Summary Judgment. The court finds that the amicus brief is untimely because it was filed too late to give the parties an adequate opportunity to respond given the current briefing schedule and imminent hearing., Motions terminated: <u>86</u> MOTION to File Amicus Brief by National Center for Lesbian Rights and Memorandum in Support filed by National Center for Lesbian Rights. Attorney for Plaintiff: James Magleby, Jennifer Parrish, Peggy Tomsic; Attorney for Defendants: Philip Lott, Stanford Purser, Darcy Goddard. Court Reporter: None.(mjm) (Entered: 12/02/2013)

		12/02/2013)
12/06/2013	<u>88</u>	<p>NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Motions for Summary Judgment held on December 4, 2013 before Judge Robert J. Shelby. Court Reporter/Transcriber Raymond P. Fenlon, Telephone number 801-809-4634.</p> <p><b>NOTICE RE REDACTION OF TRANSCRIPTS: Within 7 business days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the parties intent to redact personal data identifiers from the electronic transcript of the court proceeding. The policy and forms are located on the court's website at <a href="http://www.utd.uscourts.gov">www.utd.uscourts.gov</a>. Please read this policy carefully. If no Notice of Intent to Redact is filed within the allotted time, this transcript will be made electronically available on the date set forth below.</b></p> <p>Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 12/27/2013. Redacted Transcript Deadline set for 1/6/2014. Release of Transcript Restriction set for 3/6/2014. (jmr) Modified on 3/6/2014 by removing restricted text(las). (Entered: 12/06/2013)</p>
12/20/2013	<u>90</u>	<b>MEMORANDUM DECISION and ORDER granting <u>32</u> Motion for Summary Judgment; denying <u>33</u> Motion for Summary Judgment. Signed by Judge Robert J. Shelby on 12/20/2013. (tls) (Entered: 12/20/2013)</b>
12/20/2013	<u>91</u>	NOTICE OF APPEAL as to <u>90</u> Order on Motion for Summary Judgment,, Memorandum Decision filed by Gary R. Herbert, John Swallow. Appeals to the USCA for the 10th Circuit. Filing fee \$ 505, receipt number 1088-1967766. (Lott, Philip) (Entered: 12/20/2013)
12/20/2013	<u>92</u>	CLERK'S JUDGMENT signed by LSY – Chief Deputy Clerk. IT IS ORDERED AND ADJUDGED that judgment be entered in favor of the plaintiffs as follows: the court finds that the amendment known as Amendment 3 to Utah Constitution is unconstitutional because it denies the plaintiffs their rights to due process and equal protection under the Fourteenth Amendment of the United States Constitution. The State of Utah is enjoined from enforcing § 30-1-2 and § 30-1-4.1 of the Utah Code and Article I, §29 of the Utah Constitution to the extent these laws prohibit a person from marrying another person of the same sex. Case Closed. (tls) (Entered: 12/20/2013)
12/20/2013	<u>93</u>	Transmission of Preliminary Record to USCA re <u>91</u> Notice of Appeal. (Attachments: # <u>1</u> Appendix)(jmr) (Entered: 12/20/2013)
12/20/2013	<u>94</u>	Defendant's MOTION to Stay re <u>90</u> Order on Motion for Summary Judgment,, Memorandum Decision filed by Defendants Gary R. Herbert, John Swallow. (Lott, Philip) (Entered: 12/20/2013)
12/21/2013	<u>95</u>	<b>NOTICE OF HEARING ON MOTION</b> re: <u>94</u> Defendant's MOTION to Stay re <u>90</u> Order on Motion for Summary Judgment. The court orders the Plaintiffs to file any response to the Defendants' Motion by 5:00pm on December 22, 2013. The Defendants may file a reply at any time before the hearing on Monday morning. Motion Hearing set for 12/23/2013 at 9:00 AM in Room 220 before Judge Robert J. Shelby. :(Notice generated by Mary Jane McNamee) (mjm) (Entered: 12/21/2013)
12/22/2013	<u>96</u>	Plaintiff's MEMORANDUM in Opposition re <u>94</u> Defendant's MOTION to Stay re <u>90</u> Order on Motion for Summary Judgment,, Memorandum Decision filed by Plaintiffs Karen Archer, Kate Call, Derek Kitchen, Kody Partridge, Moudi Sbeity, Laurie Wood. (Tomsic, Peggy) (Entered: 12/22/2013)
12/23/2013	<u>97</u>	Defendant's RESPONSE <i>in Support of Motion for Stay Pending Appeal</i> filed by Gary R. Herbert, John Swallow. (Lott, Philip) (Entered: 12/23/2013)
12/23/2013	<u>98</u>	USCA Case Number Case Appealed to Tenth Circuit Case Number 13-4178 for <u>91</u> Notice of Appeal filed by John Swallow, Gary R. Herbert. (jmr) (Entered: 12/23/2013)



12/23/2013	<u>99</u>	ORDER of USCA Tenth Circuit as to <u>91</u> Notice of Appeal filed by John Swallow, Gary R. Herbert. Order filed by Judges Holmes and Bacharach denying motion for stay filed by Appellants Mr. Gary R. Herbert and John Swallow. See order for further details. (jmr) (Entered: 12/23/2013)
12/23/2013	<u>100</u>	ORDER of USCA Tenth Circuit as to <u>91</u> Notice of Appeal filed by John Swallow, Gary R. Herbert. Order filed by Judges Holmes and Bacharach denying renewed Emergency Motion for Temporary Stay filed by Appellants Mr. Gary R. Herbert and John Swallow. See order for further details. (tls) (Additional attachment(s) added on 12/23/2013: # <u>1</u> Order) (tls). (Entered: 12/23/2013)
12/23/2013	<u>101</u>	Modification of Docket: Error: Clerk attached incorrect document image to entry. Correction: Attached correct image to docket entry re <u>100</u> USCA Order. (tls) (Entered: 12/23/2013)
12/23/2013	<u>102</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Motion to Stay Pending Appeal held on 12/23/2013 before Judge Robert Shelby. Court Reporter/Transcriber Ray Fenlon, Telephone number 801-809-4634.  <b>NOTICE RE REDACTION OF TRANSCRIPTS: Within 7 business days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the parties intent to redact personal data identifiers from the electronic transcript of the court proceeding. The policy and forms are located on the court's website at <a href="http://www.utd.uscourts.gov">www.utd.uscourts.gov</a>. Please read this policy carefully. If no Notice of Intent to Redact is filed within the allotted time, this transcript will be made electronically available on the date set forth below.</b>  Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 1/13/2014. Redacted Transcript Deadline set for 1/23/2014. Release of Transcript Restriction set for 3/24/2014. (las) Modified on 3/24/2014 by removing restricted text (las). (Entered: 12/23/2013)
12/23/2013	<u>104</u>	ORDER of USCA Tenth Circuit as to <u>91</u> Notice of Appeal filed by John Swallow, Gary R. Herbert. Order filed by Judges Holmes and Bacharach: Following the district court's denial of their request for a stay pending appeal, Defendant-Appellants filed "Emergency Motion for Stay Pending Appeal and Temporary Stay Pending Resolution of Motion to Stay." Plaintiff-Appellees are ordered to file a response to these motions no later than 5:00 P.M. MST, today, 12/23/13. (las) (Entered: 12/23/2013)
12/23/2013	<u>105</u>	ORDER re <u>94</u> Defendant's MOTION to Stay re <u>90</u> Order on Motion for Summary Judgment, Memorandum Decision filed by John Swallow, Gary R. Herbert. Signed by Judge Robert J. Shelby on 12/23/2013. (tls) (Entered: 12/23/2013)
12/23/2013	106	Minute Entry for proceedings held before Judge Robert J. Shelby: Motion Hearing held on 12/23/2013 re <u>94</u> Defendant's MOTION to Stay re <u>90</u> Order on Motion for Summary Judgment/Memorandum Decision filed by John Swallow, Gary R. Herbert. The court hears oral argument and takes a brief recess. The court denies the defendant's motion to stay. An order will be issued by the court. Attorney for Plaintiff: Peggy Tomsic, Jennifer Parrish; Attorney for Defendant: Philip Lott, Brian Tarbet, Steven Walkenhorst - rep State dfts; Darcy Goddard, Ralph Chamness - SL Cnty District Atty's Office. Court Reporter: Ray Fenlon.(mjm) (Entered: 12/23/2013)
12/24/2013	<u>107</u>	ORDER of USCA Tenth Circuit as to <u>91</u> Notice of Appeal filed by John Swallow, Gary R. Herbert. Order filed by Judges Holmes and Bacharach denying motion for stay pending appeal and for temporary stay filed by Appellants Mr. Gary R. Herbert and John Swallow. This case will be heard on an expedited basis. See order for further details. Served on 12/24/2013. (jmr) (Entered: 12/26/2013)
12/26/2013	<u>108</u>	TRANSCRIPT REQUEST FORM filed by Gary R. Herbert, John Swallow for proceedings held on 12-4-2013 before Judge Shelby, re <u>91</u> Notice of Appeal (Purser, Stanford) (Entered: 12/26/2013)

12/26/2013	<u>110</u>	DOCUMENTS LODGED consisting of Amicus Brief. (tts) (Entered: 12/30/2013)
12/27/2013	<u>109</u>	Please be advised the Record is complete for purposes of appeal for USCA case number 13-4178 re <u>91</u> Notice of Appeal. (jmr) (Entered: 12/27/2013)
01/06/2014	<u>111</u>	<b>ORDER of USCA Supreme Court-as to <u>91</u> Notice of Appeal filed by John Swallow, Gary R. Herbert</b> . The application for stay presented to Justice Sotomayor and by her referred to the Court is granted. The permanent injunction issued by the United States District Court for the District of Utah, case No. 2:13-cv-217, on December 20, 2013, is stayed pending final disposition of the appeal by the United States Court of Appeals for the Tenth Circuit. (jmr) Modified on 1/6/2014 to fix typo(jmr). (Entered: 01/06/2014)
02/03/2014	<u>112</u>	<b>ORDER of USCA Tenth Circuit as to <u>91</u> Notice of Appeal(13-4178) filed by John Swallow, Gary R. Herbert</b> . This matter is before the court on the Proposed Intervenor Couples opposed motion to intervene and to participate in oral argument. At the direction of the court, and upon its review, the motion is denied. Served on 2/03/2014. (jmr) (Entered: 02/04/2014)
02/27/2014	<u>113</u>	<b>ORDER of USCA Tenth Circuit as to <u>91</u> Notice of Appeal(13-4178) filed by John Swallow, Gary R. Herbert</b> . Order filed by Clerk of the Court granting Appellants' motion to extend time to file reply brief and to exceed the word count for that brief. Appellants' reply brief due 03/11/2014. In addition, the appellants may exceed the word count for that brief by 5,000 words, resulting in a maximum of 12,000 words. (jmr) (Entered: 02/27/2014)
03/24/2014	<u>114</u>	<b>ORDER of USCA Tenth Circuit as to <u>91</u> Notice of Appeal(13-4178) filed by John Swallow, Gary R. Herbert</b> . This matter is before the court on Mr. Duane Morley Coxs Motion for Leave to Participate in Oral Arguments in Support of Utahs Constitutional Amendment No. 3. Upon consideration, and at the specific direction of the court, the motion is denied. (jmr) (Entered: 03/24/2014)
08/06/2014	<u>115</u>	Letter from US Supreme Court re: Notice of Petition for Writ of Certiorari re <u>91</u> Notice of Appeal. Supreme Court Case Number 14-124. (las) (Entered: 08/06/2014)
10/06/2014	<u>116</u>	<b>MANDATE of USCA as to <u>91</u> Notice of Appeal filed by John Swallow, Gary R. Herbert</b> . On this date, the United States Supreme Court denied certiorari review in this matter. Consequently, the stay of the mandate directed in out decision dated June 25, 2014 is lifted, and the mandate shall issue forthwith. A copy of this order shall stand as the mandate of the court. (las) (Entered: 10/06/2014)