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Via CM/ECF Filing and FedEx Overnight

Clerk, United States Court of Appeals
for the Seventh Circuit
Room 2722
219 South Dearborn Street
Chicago, IL 60604

*Re: Kimberly Hively v. Ivy Tech Community College of Indiana
No. 15-1720*

Dear Clerk,

Pursuant to Fed. R. App. P. 28(j) and Circuit Rule 28(e), Appellee submits as supplemental authority the Fourth Circuit's recent *per curiam* decision in *Murray v. The North Carolina Dep't of Public Safety*, 611 Fed. Appx. 166 (4th Cir. Aug. 12, 2015), and a recent district court decision, *Evans v. Georgia Regional Hospital*, 2015 U.S. Dist. LEXIS 120618 (S.D. Ga. Sep. 10, 2015).

The *Murray* decision affirmed the district court's dismissal of a Title VII action, finding no reversible error, and citing *Wrightson v. Pizza Hut of Am., Inc.*, 99 F.3d 138, 142 (4th Cir. 1996) (recognizing that Title VII does not protect against sexual orientation discrimination). The *Murray* decision is the most recent example of federal Circuit Courts of Appeals ruling that sexual orientation claims are not provided for under Title VII.

The *Evans* opinion addresses a Title VII claim based on sexual orientation and gender non-conformity, and concludes after discussing other cases, "So while same-sex harassment (*e.g.*, a homosexual supervisor's advances upon a same-sex employee) can be actionable under Title VII, Title VII discrimination claims based upon the plaintiffs sexual orientation or perceived sexual orientation are not." 2015 U.S. Dist. LEXIS 120618 *6-7.¹

Respectfully submitted,

/s/ John R. Maley

¹ An extension of time for objection to the Report and Recommendation has been granted with *pro hac vice* admission granted for Lambda Legal Defense & Education Fund, Inc. *Evans v. Georgia Regional Hospital*, 2015 U.S. Dist. LEXIS 127741 (S.D. Ga. Sept. 23, 2015).

Proof of Service

I certify that on September 28, 2015, a copy of this letter was served via the Court's CM/ECF system upon Gregory Nevins, Esq., LAMBDA LEGAL DEFENSE AND EDUCATION FUND, Inc., 730 Peachtree St., NE, Suite 1070, Atlanta, GA, 30308

/s/ John R. Maley

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