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September 21, 2017

Clerk's Office  
U.S. Court of Appeals  
Room 2722  
219 S. Dearborn Street  
Chicago, IL 60604

Re: Henderson v. Adams  
No. 17-1141

Dear Clerk:

This case was argued on May 22, 2017, to a panel consisting of Judges Easterbrook, Sykes and Flaum.

Pursuant to Fed. R. App. P. 28(j) and Cir. R. 28 (e), Appellees hereby advise that on September 19, 2017, the Supreme Court of Arizona in *McLaughlin v. Jones*, \_\_\_ P.3d \_\_\_, 2017 WL 4126939, ruled that *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015), and *Pavan v. Smith*, 137 S. Ct. 2075 (2017) (*per curiam*), compelled the conclusion that the rebuttable evidentiary presumption of legal parent status flowing from marriage, codified at A.R.S. §25-814 (A)(1), is a benefit "linked to marriage," *Obergefell*, 135 S. Ct. at 2601, that must be extended to same-sex married couples. In so ruling the unanimous<sup>1</sup> Arizona Supreme Court expressly rejected the ruling of a divided panel of the Court of Appeals, *Turner v. Steiner*, 242 Ariz. 494 (2017), that held that a female same-sex spouse could not be presumed a legal parent under § 25-814(A)(1) because the presumption is based on biological differences between men and women, a position nearly identical to that taken by Appellants herein. Rather than nullifying §25-814(A)(1), the Arizona Supreme Court ordered the presumptions flowing from that statute be extended to same-sex married couples, citing *Sessions v. Morales-Santana*, 137 S. Ct. 1678, 1699 (2017).

The Arizona presumption-of-parenthood statute challenged in *McLaughlin* is substantively identical to Indiana's presumption-of-parenthood statute, Ind. Code § 31-14-7-1.

<sup>1</sup> Justice Bolick agreed that *Pavan* "unequivocally forbids states from denying parenting rights to members of same-sex couples on an equal basis with opposite-sex couples," at \*10, disagreeing with his colleagues only as to whether the Court had the judicial power to extend the Arizona presumption-of-parenthood statute to same-sex married couples.



Arizona, like Indiana, also has no statutes addressing parental rights in cases of artificial insemination.

*McLaughlin* reinforces Appellees' contention, set forth in Appellees' Fed. R. App. P. 28 (j) letter of June 27, 2017, that *Obergefell*, as applied in *Pavan*, compels affirmance of the district court's decision that the Fourteenth Amendment requires that Indiana's gender-specific presumption-of-parenthood statute be extended to Appellees and to all similarly situated same-sex married couples in Indiana.

Sincerely,

s/William R. Groth  
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I hereby certify that the body of this letter does not exceed 350 words.

s/William R. Groth  
William R. Groth



## CERTIFICATE OF SERVICE

I hereby certify that on September 21, 2017, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using the CM/ECF system, which sent notification of such filing to all registered parties.

s/William R. Groth  
William R. Groth