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February 1, 2023

**VIA E-FILING AND
UPS NEXT DAY AIR**

Office of the Clerk
United States Court of Appeals for the Seventh Circuit
Everett McKinley Dirksen United States Courthouse
219 South Dearborn Street
Room 2722
Chicago, Illinois 60604

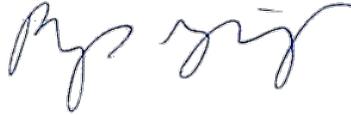
RE: Supplemental Authority pursuant to Fed. R. Civ. P. 28(j)
B.E., et al. v. Vigo County Sch. Corp., et al., No. 22-2318, and
A.C., et al. v. Metro. Sch. Dist. of Martinsville, et al., No. 22-1786

Dear Clerk:

Pursuant to Fed. R. App. P. 28(j) and Cir. R. 28(e), Appellants cite to *B.P.J., et al., v. W. Va. State Bd. of Educ., et al.*, No. 2:21-CV-00316, 2023 WL 111875 (S.D.W. Va. Jan. 5, 2023), as additional authority in this consolidated appeal. The *B.P.J.* decision is offered to supplement pages 16-18 and 32-36 of the Brief of Appellants and pages 5-7 of the Reply Brief, as additional authority showing that (1) Title IX expressly makes distinctions based on sex, and (2) policy preferences in this context are the province of the legislative branch. In *B.P.J.*, the court found that “sex and gender are related” but “not the same” and there was “no serious debate that Title IX’s endorsement of sex separation in sports refers to biological sex.” 2023 WL 111875, at *7-9. Thus, a state law allowing for the separation of sports by biological sex was constitutional and complied with Title IX, since “Title IX authorizes sex separate sports” and “transgender girls are biologically male.” *Id.* at *9.

I hereby certify that the body of this letter does not exceed 350 words as allowed by FRAP 28(j).

Sincerely,



Philip R. Zimmerly

PRZ

cc: Kenneth J. Falk, Esq.
Stevie J. Pactor, Esq.
Megan Stuart, Esq.
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