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November 3, 2008

Patricia S. Connor, Clerk
United States Court of Appeals
for the Fourth Circuit
Lewis F. Powell Jr. United States Courthouse Annex
1100 East Main Street, Suite 501
Richmond, VA 23219-3517

SUBJECT: *Snyder v. Westboro Baptist Church, Inc., et al.*, Appeal No. 08-1026

Dear Madame Clerk,

This letter is submitted pursuant to Rule 28(j), Federal Rules of Appellate Procedure, as well as Local Rule 28(e), for the citation of a supplemental authority to appellants' brief.

At p. 16 of Brief of Appellants filed June 20, 2008, under Issue 3, appellants cited *Phelps-Roper v. Nixon*, 509 F.3d 480 (8th Cir. 2007), indicating that rehearing was pending in that case. On October 31, 2008, the Eighth Circuit Court of Appeals issued an opinion on rehearing, a copy of which is enclosed. This opinion on rehearing is herewith cited as supplemental and additional authority in support of appellants' position that any privacy right that may have existed in the funeral of appellee's son, or in appellee's mourning, is outweighed by appellants' First Amendment rights to religious speech; that the burden on religious speech in this case was overbroad and not narrowly tailored to further any legitimate government interest; that the restriction on religious speech in this case constitutes an invalid "floating" buffer zone to the extent it pertains to appellee's mourning/person; that the restrictions on religious speech in this case left open no ample alternative channels for communication of the religious message/information appellants conveyed; and that for all of these reasons, the rulings in this case burdened protected speech contrary to the constitution. The Eighth Circuit reversed the trial court's denial of a request for preliminary injunction against enforcement of the Missouri funeral picketing statute, finding a likelihood of success on the merits of Phelps-Roper's claim that the law is unconstitutional.

Pursuant to Local Rule 28(e), the original and three copies of this letter and its enclosures are hereby submitted for filing and distribution. Please advise if anything further is required in this matter at this time.

Thank you.

Respectfully,

Margie J. Phelps

Enclosures: Original + 3 Copies of Letter & *Phelps-Roper v. Nixon* 10/31/08 opinion
cc w/encl by e-mail: Mr. Sean E. Summers, Esq. & Mr. Craig Trebilcock, Esq.