

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND

ALBERT SNYDER,  
Plaintiff

v.

FRED W. PHELPS, SR.,  
SHIRLEY L. PHELPS-ROPER;  
REBEKAH A. PHELPS-DAVIS; and  
WESTBORO BAPTIST CHURCH, INC.  
Defendants

Civil Action No. 06-CV-1389 RDB

**PLAINTIFF'S RESPONSE TO PRO SE DEFENDANTS' FACTS**

Plaintiff, Albert Snyder, by and through counsel, hereby responds to Defendants' Shirley Phelps-Roper's and Rebekah Phelps-Davis' Statement of Material Facts. Initially, it is important to note that many of the purported *facts* are not material to the within issues, and, consequently, all paragraphs will not be addressed.

1-37. These subjective beliefs have no bearing on the facts and law concerning defendants' motion for summary judgment and therefore will not be addressed. In other words, even assuming *arguendo* that the purported facts are true, they are irrelevant.

38. Denied. No one requested defendants' presence at the funeral. Phelps Depo. pp. 91-92 at Appendix Ex. 4. In fact, defendants did not give any thought whatsoever to whether their presence would be well-received by the Snyder family. Phelps-Roper Depo. p. 39 at Appendix Ex. 13. Defendants were not invited to the funeral. Phelps-Davis Depo. p. 146 at Appendix Ex. 13. Importantly, plaintiff wanted his son's funeral to be private. Snyder Depo. pp. 75, 83-84 at Appendix Ex. 2.

39-43. These subjective beliefs have no bearing on the facts and law concerning defendants' motion for summary judgment and therefore will not be addressed. In other words, even assuming *arguendo* that the purported facts are true, they are irrelevant.

44. Admitted with clarification. Defendants selected 43 Monroe Street. Long Depo. p. 25 at Appendix Ex. 6. Law enforcement directed defendants to a designated location at the spot that defendants requested.

45. Denied as stated. No one required defendants to stand anywhere. In fact, defendants could have conducted their protest anywhere but use military funerals to command a captive audience. Phelps Depo. p. 96 at Appendix Ex. 4. Defendants readily admit that no one forced them to come to Maryland and they could have protested anywhere. Phelps Depo. pp. 79-81 at Appendix Ex. 4; Phelps-Roper Depo. pp. 51, 53 at Appendix Ex. 13.

46. It is admitted that there were seven WBC members. Further, it is admitted that defendant Shirley Phelps-Roper brought four minor children with her to protest the funeral. It is further admitted that there were people riding motorcycles that attempted to shield the Snyder family from the reprehensible actions of defendants. In any event, the motorcycle riders were only present to shield the family, or in other words, defendants caused the motorcycle riders to be present.

47. Denied. First, defendants' reliance upon their interpretation of law enforcement's activities is hearsay or opinion and consequently not competent for purposes of their affidavit in support of their motion. See Sellers v. M.C. Floor Crafters, Inc., 842 F.2d 639, 643 (2d Cir. 1988); Evans v. Technologies Applications & Serv. Co., 80 F.3d 954, 962 (4<sup>th</sup> Cir. 1996). Furthermore, defendants specifically chose to travel to Westminster, Maryland to protest Lance

Corporal Snyder's funeral. Phelps-Davis Depo. p. 62 at Appendix Ex. 5. In fact, defendants selected 43 Monroe Street as their protest area. Long Depo. p. 25 at Appendix Ex. 6; Phelps-Davis Depo Ex. 4 at Appendix Ex. 7.

48. Denied. Defendants positioned themselves where plaintiff entered the church grounds during the funeral procession. Snyder Depo. pp. 65, 67-69, 74 at Appendix Ex. 2. "The protest [was] visible from the entrance which the Snyder procession took on that day." Father Leo Affidavit ¶17 at Appendix Ex. 3.

49. This fact cannot be admitted or denied. Furthermore, there is no record evidence presented by defendants concerning this fact. Put differently, defendants have proffered hearsay testimony, which, as stated previously, is not proper for purposes of the within motion.

50. Admitted with clarification. It is admitted that numerous people have contacted plaintiff since he filed his lawsuit and the overwhelming majority have disagreed with the defendants' actions concerning protesting Lance Corporal Matthew Snyder's funeral. It is further admitted that many people have encouraged plaintiff to pursue his lawsuit in the hopes of stopping the reprehensible acts of defendants. In fact, defendants knew that their presence would not be well-received by the Snyder family. Phelps-Davis Depo p. 100 at Appendix Ex 5. Further, defendants had no reason to believe that anyone was interested in defendants' presence in Westminster, Maryland on March 10, 2006. Phelps-Roper Depo. p. 40 at Appendix Ex. 13; Phelps Depo. p. 88-89 at Appendix Ex. 4. Interestingly, defendant Phelps-Roper swears in her Affidavit that she has reviewed hundreds of documents produced to defendants Phelps and WBC and has even summarized the same. Phelps-Roper Affidavit ¶106-109. However, on June 14, 2007, defendant Phelps-Roper swore under oath that she did not review any documents produced

in this lawsuit. Phelps-Roper Depo. pp. 37-38 at Appendix Ex. 13. Similarly, defendants Phelps-Davis swore under oath in an Affidavit that she reviewed and summarized documents produced during this litigation. Phelps-Davis Affidavit ¶¶100-102. However, on June 14, 2007, defendant Phelps-Davis testified under oath, contrary to her sworn testimony in her Affidavit, that she did not review any documents exchanged during this litigation. “Did you review any [documents] that were requested by Mr. Katz on his -- behalf of his clients? No. None? Nope. Certain? Certain.” Phelps-Davis Depo. p. 94 at Appendix Ex. 5. The Affidavits were signed on April 22, 2007 and the deposition was on June 14, 2007. Notwithstanding the clearly subjective nature of defendants’ assertion, the Court should disregard this supposed material fact because of defendants’ blatant lies under oath.

51. Denied as stated. Defendants sang “as loud as seven people can sing.” Long Depo. p. 65 at Appendix Ex. 6. Again, defendants selected 43 Monroe Street as their protest area. Long Depo. p. 25, Phelps-Davis Depo Ex. 4 at Appendix Ex. 7. By way of further response, it is admitted that defendants held signs and discussed topics such as Thank God for Dead Soldiers, Maryland Taliban, God Hates America, You Are Going to Hell, Thank God for IEDs, Pope in Hell, and Matt in Hell. It is further admitted that defendants spoke with media and their presence created a circus-like atmosphere. Father Leo Affidavit ¶¶10 at Appendix Ex. 3. It is denied that defendants’ actions and presence are tantamount to a purported religious opinion or viewpoint.

52. Denied. The protestors arrived at 9:30 a.m. and left at 10:26 a.m. Long Depo. p. 44 at Appendix Ex. 6. The funeral began at 10:15 a.m. Phelps-Davis Depo. Ex. 4 at Appendix Ex. 7.

53. It is admitted that the defendants did not enter the physical confines of the church.

54. Denied as stated. Defendants' presence did not allow the Snyder family to have normal access to the church campus and changed the entire atmosphere of the services. Father Leo Affidavit ¶9 at Appendix Ex. 3. Further, defendants' presence at the church campus created a circus-like atmosphere during the solemn occasion. Father Leo Affidavit ¶10 at Appendix Ex. 3.

55. Admitted that defendants testified to this. However, plaintiff Snyder saw the defendants. Snyder Depo. pp. 65, 67-69, 74 at Appendix Ex. 2.

56. Denied as stated. Defendants sang "as loud as seven people can sing." Long Depo. p. 65 at Appendix Ex. 6. In addition, the circus-like atmosphere created by defendants' presence resulted in the local CRT (i.e., the SWAT team) being activated, the state police command center was established (in the form of a Winnebago), EMTs and ambulances were on standby, and state, county and local police were present and on standby. Long Depo. p. 17 at Appendix Ex. 6. Furthermore, defendants were responsible for numerous motorcycle riders attempting to block defendants' presence and shield the Snyder family, and therefore, defendants are responsible for the accompanying noise created by the motorcycle riders. Further, defendants' reprehensible acts resulted in citizens stopping their cars in the streets and shouting. Long Depo. p. 50 at Appendix Ex. 6. In addition, citizens demonstrated hand gestures in response to defendants' presence. Long Depo. p. 46 at Appendix Ex. 6. In short, defendants' presence created extreme amounts of noise.

57. Denied. Defendants used Lance Corporal Matthew Snyder to take advantage of a captive audience and demand media attention. Tim Phelps Depo. pp. 116-117 at Appendix Ex.

15. In other words, defendants could have exercised what they call religious beliefs anywhere. Phelps Depo. pp. 79-81 at Appendix Ex. 4; Phelps-Davis Depo. p. 67 at Appendix Ex. 5; Phelps-Roper Depo p. 53 at Appendix Ex. 13; Tim Phelps Depo. p. 114 at Appendix Ex. 15. Put differently, the only logical explanation for protesting a military funeral in Maryland versus a public park in Topeka, Kansas is that the defendants knew they would have an audience at the military funeral in Maryland, but on the other hand, no one would listen to their purported religious beliefs at a public park in Topeka, Kansas.

58. Denied. Initially, it is important to note that defendants' intent will be a question for the jury. In any event, defendants have already been admonished concerning their actions.

Based on the expert evidence admitted of the societal purpose of funerals and the effect on attendees, particularly the emotional status of mourners who may be, but are not exclusively, family members of the deceased, it is overwhelmingly clear and beyond doubt that persons at funeral events who are even perceived by the family or friends of a deceased as "outsiders" and interfering with the family's control of the funeral agenda, much less persons manifesting a presence that is hostile or derisive of the deceased, is per se, conduct that is disorderly and assault provoking. Further, it seems factually beyond dispute that picketing funeral events is, per se, to some degree immediately injurious to family and close friends of the deceased and further, by psychologically interrupting the grieving process of the deceased's survivors and friends, such a presence may, as medical fact, cause some mourners actual physical distress and physical injury.

Westboro Baptist Church, Inc. et al., v. City of Topeka et al. at 24.

59. The law speaks for itself.

60. Denied. Defendants' self-serving interpretation of the law is of no moment. Furthermore, plaintiff is not the State of Maryland attempting to enforce a law against a citizen. To the contrary, plaintiff is a private citizen bringing a private lawsuit. Therefore, defendants are responsible for their tortuous activity. See Van Schaick v. Church of Scientology, Inc., 535

F.Supp. 1125 (D.C. Mass. 1982); Magallanes v. Cracker Barrel, 2002 W.L. 92928 (D. Kan. 2002); and Tilton v. Richardson, 6 F.3d 683 (10<sup>th</sup> Cir. 1993).

61. It is admitted that nearly every state and the federal government has passed laws to stop the reprehensible acts of defendants. It is further admitted that the various states and the federal government have different laws.

62. Denied. Defendants positioned themselves at the entrance of the church campus. Father Leo Affidavit ¶17 at Appendix Ex. 3. Furthermore, plaintiff witnessed defendants' presence on March 10, 2006. Snyder Depo. pp. 65, 67-69, 74 at Appendix Ex. 2; Phelps-Davis Depo. Ex. 2 at Appendix Ex. 1; Phelps-Roper Depo. pp. 114-115 at Appendix Ex. 13.

63. Denied. According to defendants, they stood several feet from one of the church entrances. Phelps-Davis Depo. Ex. 2 at Appendix Ex. 1. Further, "[t]he protestors were located in the next entrance down on our campus from where the funeral procession normally enters. The protest is visible from the entrance which the Snyder procession took on that date." Father Leo Affidavit ¶17 at Appendix Ex. 3.

64. Denied. According to defendants, they stood several feet from one of the church entrances. Phelps-Davis Depo. Ex. 2 at Appendix Ex. 1. Further, "[t]he protestors were located in the next entrance down on our campus from where the funeral procession normally enters. The protest is visible from the entrance which the Snyder procession took on that date." Father Leo Affidavit ¶17 at Appendix Ex. 3.

65. Denied. According to defendants, they stood several feet from one of the church entrances. Phelps-Davis Depo. Ex. 2 at Appendix Ex. 1. Further, "[t]he protestors were located in the next entrance down on our campus from where the funeral procession normally enters.

The protest is visible from the entrance which the Snyder procession took on that date.” Father Leo Affidavit ¶17 at Appendix Ex. 3. Further, plaintiff saw defendants. Snyder Depo. pp. 65, 67-69, 74 at Appendix Ex. 2.

66. Denied. According to defendants, they stood several feet from one of the church entrances. Phelps-Davis Depo. Ex. 2 at Appendix Ex. 1. Further, “[t]he protestors were located in the next entrance down on our campus from where the funeral procession normally enters. The protest is visible from the entrance which the Snyder procession took on that date.” Father Leo Affidavit ¶17 at Appendix Ex. 3. Further, plaintiff saw defendants. Snyder Depo. pp. 65, 67-69, 74 at Appendix Ex. 2. Furthermore, the State of Maryland is not enforcing a law. A private citizen brought a lawsuit against another private citizen and entity.

67. It is admitted that defendant Shirley Phelps-Roper testified that she wrote information concerning Matthew Snyder on the internet. However, the cited reference does not support defendants’ position. In addition, Margie Phelps posted information concerning plaintiff on the internet. Tim Phelps Depo. Ex. 11 at Appendix Ex. 14. All defendants made it clear that they are in full agreement concerning any decision, to include their so-called epics.

68. Denied. Defendants wrote that plaintiff taught his son adultery. Phelps-Davis Depo. Ex. 12 at Appendix Ex. 12. This is untrue and therefore defamatory.

69. Denied. Defendants wrote that plaintiff taught his son adultery. Phelps-Davis Depo. Ex. 12 at Appendix Ex. 12. This is untrue and therefore defamatory.

70. It is admitted that Defendant Shirley Phelps-Roper testified that she wrote information concerning Matthew Snyder on the internet. However, the cited reference does not support defendants’ position. In addition, Margie Phelps posted information concerning plaintiff



on the internet. Tim Phelps Depo. Ex. 11 at Appendix Ex. 14. All defendants made it clear that they are in full agreement concerning any decision, to include their so-called epics.

71. Denied. Defendants wrote that plaintiff taught his son adultery. Phelps-Davis Depo. Ex. 12 at Appendix Ex. 12. This is untrue and therefore defamatory.

72. It is admitted that Defendant Shirley Phelps-Roper testified that she wrote information concerning Matthew Snyder on the internet. However, the cited reference does not support defendants' position. In addition, Margie Phelps posted information concerning plaintiff on the internet. Tim Phelps Depo. Ex. 11 at Appendix Ex. 14. All defendants made it clear that they are in full agreement concerning any decision, to include their so-called epics.

73. Denied. Defendants wrote that plaintiff taught his son adultery. Phelps-Davis Depo. Ex. 12 at Appendix Ex. 12. This is untrue and therefore defamatory.

74. It is admitted that defendant Phelps-Roper stated her subjective belief in her Affidavit. It is denied that a jury is required to believe her subjective belief concerning the definition of adultery.

75. Admitted.

76. Denied as stated. It is admitted that Lance Corporal Matthew A. Snyder's funeral was at St. John's Catholic Church and it is fair to conclude that the Snyder family practices Catholicism. It is denied that this information was published, at least not by plaintiff.

77. Admitted. By way of further response, this is evidence that defendants acted with reckless disregard when they claimed plaintiff taught his son adultery.

78. Denied as stated. Defendants have not identified anyone that was discussing the divorce of the Snyders publicly. Further, plaintiff is unaware of anyone publicly discussing

Matthew Snyder being raised in the Catholic religion. Additionally, no one was discussing the priest scandal in the Catholic Church at Matthew Snyder's funeral.

79. These subjective beliefs have no bearing on the facts and law concerning defendants' motion for summary judgment and therefore will not be addressed. In other words, even assuming *arguendo* that the purported facts are true, they are irrelevant.

80. Denied. Regardless, a WBC member wrote the information and Margie Phelps posted information concerning plaintiff on the internet. Tim Phelps Depo. Ex. 11 at Appendix Ex. 14. All defendants made it clear that they are in full agreement concerning any decision, to include their internet postings.

81. Admitted in part; denied in part. It is admitted that the quoted signs were present and held by one or more of the defendants. It is denied that any of defendants' activities is religious practice or expression. Assuming *arguendo* that defendants actually believe what they say, they are not entitled to disrupt plaintiff's religious practice, especially when he is burying his son.

82. Admitted in part; denied in part. It is admitted that the quoted signs were present and held by one or more of the defendants. It is denied that any of defendants' activities is religious practice or expression. Assuming *arguendo* that defendants actually believe what they say, they are not entitled to disrupt plaintiff's religious practice, especially when he is burying his son.

83. It is admitted that defendant Phelps-Roper has stated this is her best memory.

84. It is admitted that defendant Phelps-Roper has stated this is her best memory.

85. It is admitted that defendant Phelps-Davis has stated this is her best memory.

86-89. These statements are not facts and are conclusions of law for the Court to decide.

89. (Misnumbered). It is admitted that Defendant Shirley Phelps-Roper testified that she wrote information concerning Matthew Snyder on the internet. All defendants made it clear that they are in full agreement concerning any decision.

90. It is admitted that Defendant Shirley Phelps-Roper testified that she wrote information concerning Matthew Snyder on the internet. All defendants made it clear that they are in full agreement concerning any decision.

91. It is admitted that Defendant Shirley Phelps-Roper testified that she wrote information concerning Matthew Snyder on the internet. In addition, Margie Phelps posted information concerning plaintiff on the internet. Tim Phelps Depo. Ex. 11 at Appendix Ex. 14. All defendants made it clear that they are in full agreement concerning any decision. By way of further response, WBC members are, however, in full agreement with every decision. Tim Phelps Depo. pp. 16, 57, 100 and 118 at Appendix Ex. 15. With that agreement in mind, Margie Phelps wrote “[a]nother curse is those Amish girls dying, right in the backyard of Rendell and those perverts at Barley Snyder who dared to defy the armies of the Living God and take up slander and attack on the Church of God.” Tim Phelps Depo. Ex. 11, p. 2 at Appendix Ex. 14. Another WBC member wrote “Governor Rendell conceived that mischief (Job 15:35) on top of the offense against God of the Barley, Snyder law firm, who with their pudgy-faced squally client, Al Snyder, tried to abuse the court system to seek revenge on the voice of God in this earth, because their stark rebellion against the righteous judgments of the Most High.” Tim Phelps Depo. Ex. 12, p. 1-2 at Appendix Ex. 16.

92. Admitted with clarification. It is admitted that Defendant Shirley Phelps-Roper testified that she wrote information concerning Matthew Snyder on the internet. In addition, Margie Phelps posted information concerning plaintiff on the internet. Tim Phelps Depo. Ex. 11 at Appendix Ex. 14. All defendants made it clear that they are in full agreement concerning any decision. By way of further response, WBC members are, however, in full agreement with every decision. Tim Phelps Depo. pp. 16, 57, 100 and 118 at Appendix Ex. 15.

93. Admitted.

94. Admitted.

95. Admitted.

96. Denied. Defendants protested Matthew Snyder's funeral because they had a captive audience and consequently, it was more "efficient" to get their message out. Tim Phelps Depo. pp. 116-117.

97. Admitted in part; denied in part. It is admitted that defendants knew their presence and signs would not be well-received. However, defendants know that "[t]here is no religious consequence imposed for failing to picket at a specific location or event." Westboro Baptist Church, Inc., et al. v. City of Topeka, et al., at 76, Appendix Ex. 22.

98. Denied. Defendants protested Matthew Snyder's funeral because they had a captive audience and consequently, it was more "efficient" to get their message out. Tim Phelps Depo. pp. 116-117 at Appendix Ex. 15. However, defendants know that "[t]here is no religious consequence imposed for failing to picket at a specific location or event." Westboro Baptist Church, Inc., et al. v. City of Topeka, et al., at 76 at Appendix Ex. 22.

99. Denied as stated. Defendants positioned themselves at a place where plaintiff entered the church area. Snyder Depo pp. 65, 67-69, 74 at Appendix Ex. 2; Father Leo Affidavit ¶17 at Appendix Ex. 3.

100. Denied. Defendants positioned themselves at a place where plaintiff entered the church area. Snyder Depo pp. 65, 67-69, 74 at Appendix Ex. 2; Father Leo Affidavit ¶17 at Appendix Ex. 3.

101. Denied as stated. Defendants positioned themselves at a place where plaintiff entered the church area. Snyder Depo pp. 65, 67-69, 74 at Appendix Ex. 2; Father Leo Affidavit ¶17 at Appendix Ex. 3.

102. Denied as stated. Defendants positioned themselves at a place where plaintiff entered the church area. Snyder Depo pp. 65, 67-69, 74 at Appendix Ex. 2; Father Leo Affidavit ¶17 at Appendix Ex. 3.

103. Denied as stated. The protestors stood on property maintained by the church staff. Father Leo Affidavit ¶8 at Appendix Ex. 3. Furthermore, the protestors stood in an area where the government, at best, had a right-of-way but certainly no ownership. According to Major Long, “it’s property adjacent to the road that -- that a local government or body may own, and allows for direction or traffic control signs, to put gutters in, to put drains in. In other words, when a road is built with just the paved portion of it, then there’s no area on the sides for the infrastructure that need to go with the road.” Long Depo. pp. 21-22 at Appendix Ex. 6.

104. Denied. To the contrary, defendants’ 1,000 foot measurement was not a straight-line distance. Stated differently, defendants’ measurements were taken as if the defendants were driving in a vehicle and on the road to the front door of the church. Phelps-Davis Depo. Ex. 2 at

Appendix Ex. 1. Furthermore, defendants positioned themselves where plaintiff entered the church grounds during the funeral procession. Al Snyder Depo. p. 65, 67-69, 74 at Appendix Ex. 2. Indeed, the protest was visible from the entrance where the procession entered. Father Leo Affidavit ¶17 at Appendix Ex. 3.

105. Admitted with clarification. The protestors contacted law enforcement in advance of the protest and notified law enforcement that their message “will not be well-received” and “people who opposed our message are tempted to try violence to silence it.” Phelps-Davis Depo. Ex. 4 at Appendix Ex. 7. In response to the protestors’ contact with law enforcement, the local CRT (i.e., the SWAT team) was activated, the state police command center was established (in the form of a Winnebago), EMTs and ambulances were on standby, and state, county and local police were present and on standby. Long Depo. p. 17 at Appendix Ex. 6; Maas Depo. pp. 19, 29-31 at Appendix Ex. 8. Furthermore, the protestors received an escort by the Sheriff’s office to the church to an area where they eventually protested the funeral. Maas Depo. p. 12 at Appendix Ex. 8.

106. Admitted with clarification. The protestors contacted law enforcement in advance of the protest and notified law enforcement that their message “will not be well-received” and “people who opposed our message are tempted to try violence to silence it.” Phelps-Davis Depo. Ex. 4 at Appendix Ex. 7. In response to the protestors’ contact with law enforcement, the local CRT (i.e., the SWAT team) was activated, the state police command center was established (in the form of a Winnebago), EMTs and ambulances were on standby, and state, county and local police were present and on standby. Long Depo. p. 17 at Appendix Ex. 6; Maas Depo. pp. 19, 29-31 at Appendix Ex. 8. Furthermore, the protestors received an escort by the Sheriff’s office

to the church to an area where they eventually protested the funeral. Maas Depo. p. 12 at Appendix Ex. 8.

107. Admitted in part; denied in part. It is admitted that no physical violence was perpetrated on March 10, 2006. However, members of the general public witnessed defendants' heinous acts and stopped their cars in the middle of the street and had to be ordered back into their cars by law enforcement. Long Depo. p. 50 at Appendix Ex. 6. Further, members of the general public used hand gestures to display their dislike of the heinous acts perpetrated by the defendants. Long Depo. p. 46 at Appendix Ex. 6.

108. Denied as stated. Defendants must have thought there was a credible threat of violence or they would not have requested police protection. Phelps-Davis Depo. Ex. 4. at Appendix Ex. 7. Indeed, law enforcement thought there was a credible threat of violence. Maas Depo. p. 32 at Appendix Ex. 8.

109. Admitted in part; denied in part. It is admitted that the Bureau of Engineering identified an area that law enforcement referred to as a right-of-way. It is denied that anyone identified a public "easement." Long Depo. p. 21-22 at Appendix Ex. 6. However, the protestors did stand on property maintained by the church. Father Leo Affidavit ¶8 at Appendix Ex. 3.

110. Admitted with clarification. Defendants selected 43 Monroe Street. Long Depo. p. 25 at Appendix Ex. 6. Law enforcement directed defendants to a designated area at the location defendants requested.

111. Denied as stated. Defendants selected 43 Monroe Street. Long Depo. p. 25 at Appendix Ex. 6. Law enforcement directed defendants to a designated area at the location

defendants requested. To the contrary, defendants' 1,000 foot measurement was not a straight-line distance. Stated differently, defendants' measurements were taken as if the defendants were driving in a vehicle and on the road to the front door of the church. Phelps-Davis Depo. Ex. 2 at Appendix Ex. 1. Furthermore, defendants positioned themselves where plaintiff entered the church grounds during the funeral procession. Al Snyder Depo. p. 65, 67-69, 74 at Appendix Ex. 2. Indeed, the protest was visible from the entrance where the procession entered. Father Leo Affidavit ¶17 at Appendix Ex. 3.

112. Denied as stated. Law enforcement was present to ensure safety. Long Depo. p. 43 at Appendix Ex. 6.

113. Admitted that Major Long did not see the funeral procession. However, plaintiff saw the protestors from the funeral procession. Al Snyder Depo. p. 65, 67-69, 74 at Appendix Ex. 2. Further, the protest was visible from the entrance where the procession entered. Father Leo Affidavit ¶17 at Appendix Ex. 3.

114. Admitted that Major Long testified that the defendants were singing "as loud as seven people can sing."

115. Denied. The Carroll County Public Information Officer formed an area across the street from the protestors for the media. Long Depo. p. 31 at Appendix Ex. 6. Further, the protestors' presence created a circus-like atmosphere and the media focused on the protestors, further exacerbating the circus like atmosphere. Father Leo Affidavit ¶10 at Appendix Ex. 3. Further, the circus-like atmosphere resulted in one or more media members rushing across the street towards the protestors and that member of the media was ultimately turned away by law enforcement. Long Depo. p. 63 at Appendix Ex. 6.



116. Denied. The protestors arrived at 9:30 a.m. and left at 10:26 a.m. Long Depo. p. 44 at Appendix Ex. 6. The funeral began at 10:15 a.m. Phelps-Davis Depo. Ex. 4 at Appendix Ex. 7.

117. Denied. The protestors arrived at 9:30 a.m. and left at 10:26 a.m. Long Depo. p. 44 at Appendix Ex. 6. The funeral began at 10:15 a.m. Phelps-Davis Depo. Ex. 4 at Appendix Ex. 7.

118. Admitted.

119. Admitted with clarification. It is admitted that Ms. Francis testified as stated. However, plaintiff saw the protestors as he entered the church during the funeral procession. Al Snyder Depo. p. 65, 67-69, 74 at Appendix Ex. 2. Further, the protest was visible from the church entrance for the funeral procession. Father Leo Affidavit ¶17 at Appendix Ex. 3.

120. It is admitted that Dr. Mann stated “I don’t believe he did.” Mann Depo. p. 119 at Appendix Ex. 9. However, it is unclear if Dr. Mann stated that plaintiff communicated this specific fact to Dr. Mann.

121. Denied as stated. Ms. Francis testified that she thought her casualty assistance officers contacted the Patriot Guard. Francis Depo. p. 17 at Appendix Ex. 10. Regardless, plaintiff Snyder wanted a private funeral for the burial of his son. Snyder Depo. p. 75, 83-84 at Appendix Ex. 2. Further, any statements made by Ms. Francis concerning the casualty assistance officer must be disregarded as hearsay. See Sellers v. M.C. Floor Crafters, Inc., 842 F.2d 639, 643 (2d Cir. 1988); Evans v. Technologies Applications & Serv. Co., 80 F.3d 954, 962 (4th Cir. 1996).

122. Denied as stated. Ms. Francis testified that she thought her casualty assistance officers contacted the Patriot Guard. Francis Depo. p. 17 at Appendix Ex. 10. Regardless, plaintiff Snyder wanted a private funeral for the burial of his son. Snyder Depo. p. 75, 83-84 at Appendix Ex. 2. By way of further response, it is admitted that defendants protested and disrupted plaintiff's son's funeral and in response a Patriot Guard member raised his middle finger at the protestors. Long Depo. p. 50 at Appendix Ex. 6. It is further admitted that the protestors continued with their protest and Major Long did not see the protestors respond in kind. Further, any statements made by Ms. Francis concerning the casualty assistance officer must be disregarded as hearsay. See Sellers v. M.C. Floor Crafters, Inc., 842 F.2d 639, 643 (2d Cir. 1988); Evans v. Technologies Applications & Serv. Co., 80 F.3d 954, 962 (4th Cir. 1996).

123. Admitted with clarification. It is admitted that plaintiff was not aware of anyone posted at the front of the church preventing anyone in particular from entering the church. Snyder Depo. pp. 83-84 at Appendix Ex. 2. However, plaintiff requested a private funeral. Snyder Depo. p. 84 at Appendix Ex. 2. By way of further response, the defendants' protest disrupted the funeral service. Father Leo Affidavit ¶9 at Appendix Ex. 3. Furthermore, defendants discouraged other parish families who were present to share the Snyder family's grief. Id. ¶11 at Appendix Ex. 3.

124. Admitted. By way of further response, the policemen, fire trucks and children did not disrupt the funeral or station themselves outside the church area where the funeral procession enters.

125. Admitted with clarification. Ms. Francis did not plan the picketing. "I didn't plan the picketing." Francis Depo. p. 20 at Appendix Ex. 10. However, defendants' "presence

did not allow us to have normal access to the campus and changed the entire atmosphere of the services.” Father Leo Affidavit ¶9 at Appendix Ex. 3.

126. Denied. See Father Leo Affidavit ¶9 at Appendix Ex. 3.

127. Denied as stated. It is admitted that Mr. Fisher did not see the protestors.

However, it is denied that Mr. Fisher was “a few cars behind the vehicle plaintiff was in.” Fisher Depo. p. 24-25 at Appendix Ex. 11.

128. Admitted. By way of further response, the policemen, fire trucks and children did not disrupt the funeral or station themselves outside the church area where the funeral procession enters.

129. Admitted with clarification. It is admitted that Mr. Fisher stated that people along the highway stopped to honor and salute Matt, to include police, fire police and military and that Mr. Fisher thought that was a beautiful tribute. Fisher Depo. p. 36 at Appendix Ex. 11.

130. Denied. It is admitted that Mr. Fisher visited defendants’ websites “maybe once every two months.” Fisher Depo. p. 31 at Appendix Ex. 11. It is admitted that on one occasion Mr. Fisher told plaintiff about the website. However, plaintiff stated “he had no interest in seeing it.” Fisher Depo. p. 31 at Appendix Ex. 11 It is admitted that Mr. Fisher stated that defendants’ website is “just the most despicable, hate speech I have ever seen, just made me sick to my stomach, I only allow myself to go on periodically because what I see sickens me, when I see the picture of Matt Shepard with flames around his head I couldn’t believe anybody could practice such hatred. I was appalled. I am appalled by the signs they carry.” Fisher Depo. pp. 27-28 at Appendix Ex. 11.

131. Admitted with clarification. It is admitted that numerous people have contacted plaintiff since he filed his lawsuit and the overwhelming majority have disagreed with the defendants' actions concerning protesting Lance Corporal Matthew Snyder's funeral. It is further admitted that many people have encouraged plaintiff to pursue his lawsuit in the hopes of stopping the reprehensible acts of defendants.

132. Admitted.

133. Denied as stated. Plaintiff discusses the war in private conversation with friends.

134. Admitted that plaintiff divorced his wife in 1998. It is further admitted that one of the reasons Mr. and Mrs. Snyder were not compatible was because he believed she was too tough on their children.

135. Admitted. By way of further response, plaintiff missed work because of plaintiff's actions but disability insurance covered that time away from work.

136. Admitted in part; denied in part. Admitted that plaintiff learned the night before or the morning of the funeral that the protestors were going to protest his son's funeral. Snyder Depo. pp. 63-64 at Appendix Ex. 2. By way of further response, plaintiff was at the funeral home when he learned that the protestors were going to disrupt his son's funeral. Snyder Depo. p. 64 at Appendix Ex. 2. It is also admitted that plaintiff tried "to put ugly out of my mind." Snyder Depo. p. 64 at Appendix Ex. 2. In addition, plaintiff's son was on the forefront of his mind and he attempted to put the protestors in the back of his mind. Snyder Depo. pp. 64-65 at Appendix Ex. 2. Any implication that defendants were not on plaintiff's mind is denied, but it is true that plaintiff was trying to focus on his son.

137. Denied. Plaintiff saw the protestors as he entered the church during the funeral procession. Snyder Depo. p. 65, 67-69, 74 at Appendix Ex. 2.

138. Admitted in part; denied in part. It is admitted that plaintiff entered his son's name in google.com. Unfortunately, plaintiff was directed to an article written by defendant Shirley Phelps-Roper styled as "The Burden of Matthew Snyder." Snyder Depo. p. 109 at Appendix Ex. 2. Consequently, plaintiff was directed to defendants' website, www.godhatesfags.com. Snyder Depo. pp. 109-112 at Appendix Ex. 2; Phelps-Davis Depo. Ex. 12 at Appendix Ex. 12.

139. Admitted with clarification. Plaintiff was interviewed by the York, Pennsylvania local newspaper, to include the morning and afternoon version. In addition, plaintiff was interviewed by the *Baltimore Gazette*. Snyder Depo. pp. 125-126 at Appendix Ex. 2.

140. Denied. Plaintiff appeared on CNN without defendant Shirley Phelps-Roper after he filed his lawsuit. Snyder Depo. p. 127 at Appendix Ex. 2. By way of further response, plaintiff Snyder did not testify that he ever made a joint appearance on a radio station with defendant Shirley Phelps-Roper and, tellingly, the cited references do not support defendants' position concerning the same. Furthermore, defendant Phelps-Roper could not confirm that she participated in a radio interview with plaintiff. Phelps-Roper Depo. p. 99-100 at Appendix Ex. 13. By way of further response, plaintiff was interviewed on Fox News after he filed his lawsuit and his interview was immediately followed by defendant Shirley Phelps-Roper. Snyder Depo. p. 132 at Appendix Ex. 2.

141. Admitted with clarification. All of these events happened after the death, funeral and protest.

142. Denied as stated. “Many” is subjective and difficult to quantify. In any event, there were media or news articles concerning the funeral. Unfortunately, the media was focused on the protestors. Father Leo Affidavit ¶10 at Appendix Ex. 3.

143. Admitted in part; denied in part. It is admitted that it has been years since plaintiff has read the Bible and that he does not currently believe in the Bible. Snyder Depo. p. 160 at Appendix Ex. 2. Any other inferences are denied.

144. Admitted. However, the referenced dialogue was clearly concerning “normal” people. For example, plaintiff did not consider it “normal” for defendants to have their grandchildren, children and nieces and nephews protesting someone else’s funeral, disrupting the funeral and parading reprehensible signs at someone else’s funeral.

BARLEY SNYDER LLC

/s/ Sean E. Summers

By:

\_\_\_\_\_  
Paul W. Minnich  
Sean E. Summers  
100 East Market Street  
P.O. Box 15012  
York, PA 17405-7012  
(717) 846-8888

Craig T. Trebilcock  
Shumaker Williams PC  
135 North George Street  
York, PA 17401  
(717) 848-5134

2054548

**CERTIFICATE OF SERVICE**

I hereby certify that on this date true and correct copies of Plaintiff's Response to Defendants Shirley Phelps-Roper's and Rebekah Phelps-Davis's Facts are being served in the following manner:

Via ECF:

Jonathan L. Katz, Esquire  
Marks & Katz, LLC  
1400 Spring Street  
Suite 410  
Silver Spring, MD 20910

Via first class mail:

Shirley L. Phelps-Roper  
3640 Churchill Road  
Topeka, KS 66604

Rebekah A. Phelps-Davis  
1216 Cambridge  
Topeka, KS 66604

BARLEY SNYDER LLC

/s/ Sean E. Summers

By: \_\_\_\_\_

Paul W. Minnich  
Sean E. Summers  
100 East Market Street  
P.O. Box 15012  
York, PA 17405-7012  
(717) 846-8888

Date: September 21, 2007