

2004

Keri Lynne Jones Jones v. Cheryl Pike Barlow : Reply Brief

Utah Supreme Court

Follow this and additional works at: https://digitalcommons.law.byu.edu/byu_sc2



Part of the [Law Commons](#)

Original Brief Submitted to the Utah Supreme Court; digitized by the Howard W. Hunter Law Library, J. Reuben Clark Law School, Brigham Young University, Provo, Utah; machine-generated OCR, may contain errors.

Lauren R. Barros; Kathryn D. Kendell; Attorneys for Plaintiff.

Frank D.. Mylar; Mylar Law; Attorney for Defendant .

Recommended Citation

Reply Brief, *Jones v. Barlow*, No. 20040932.00 (Utah Supreme Court, 2004).
https://digitalcommons.law.byu.edu/byu_sc2/2549

This Reply Brief is brought to you for free and open access by BYU Law Digital Commons. It has been accepted for inclusion in Utah Supreme Court Briefs by an authorized administrator of BYU Law Digital Commons. Policies regarding these Utah briefs are available at http://digitalcommons.law.byu.edu/utah_court_briefs/policies.html. Please contact the Repository Manager at hunterlawlibrary@byu.edu with questions or feedback.

UTAH SUPREME COURT
BRIEF

UTAH
DOCUMENT

IN THE UTAH STATE SUPREME COURT

48.9

.59

DOCKET NO. 20040932-SC

KERI LYNNE JONES,

Plaintiff/Appellee,

v.

CHERYL PIKE BARLOW,

Respondent/Appellant.

Supreme Court No. 2004-0932-SC

APPELLANT'S REPLY BRIEF

Appeal from Third District Court Judge Timothy Hanson awarding visitation to a legal stranger over the objections of a fit parent, by denying motions to dismiss and for summary judgment, entering an order granting *in loco parentis* status following a two-day trial, and entering final orders after granting visitation following a second trial.

Frank D. Mylar (5116)
MYLAR LAW, P.C.
6925 Union Park Center, Suite 600
Midvale, Utah 84047-4141
Phone: (801) 858-0700
FAX: (801) 858-0701

Attorney for Defendant/Appellant

Lauren R. Barros, Esq.
Kathryn D. Kendell, Esq.
National Center for Lesbian Rights
261 East 300 South, Suite 300
Salt Lake City, Utah 84111

Attorneys for Plaintiff/Appellee

FILED
UTAH APPELLATE COURT

JUL 05

ORAL ARGUMENT REQUESTED BY DEFENDANT/APPELLANT

IN THE UTAH STATE SUPREME COURT

KERI LYNNE JONES,

Plaintiff/Appellee,

v.

CHERYL PIKE BARLOW,

Respondent/Appellant.

Supreme Court No. 2004-0932-SC

APPELLANT'S REPLY BRIEF

Appeal from Third District Court Judge Timothy Hanson awarding visitation to a legal stranger over the objections of a fit parent, by denying motions to dismiss and for summary judgment, entering an order granting *in loco parentis* status following a two-day trial, and entering final orders after granting visitation following a second trial.

Frank D Mylar (5116)
MYLAR LAW, P C
6925 Union Park Center, Suite 600
Midvale, Utah 84047-4141
Phone (801) 858-0700
FAX (801) 858-0701

Attorney for Defendant/Appellant

Lauren R Barros, Esq
Kathryn D Kendell, Esq
National Center for Lesbian Rights
261 East 300 South, Suite 300
Salt Lake City, Utah 84111

Attorneys for Plaintiff/Appellee

ORAL ARGUMENT REQUESTED BY DEFENDANT/APPELLANT

TABLE OF CONTENTS

TABLE OF AUTHORITIES.....	iii
REPLY ARGUMENT.....	1
POINT I:	
THE “FACTS” RELEVANT TO SUMMARY JUDGMENT AND AT TRIAL ARE THE UNDISPUTED MATERIAL FACTS AS DETERMINED BY THE APPLICABLE LAW.....	1
POINT II:	
THE DISTRICT COURT LACKS SUBJECT MATTER JURISDICTION.....	4
A. The Complaint is Jurisdictional Defective.....	4
B. Utah Common Law and Historical Statutes Do Not Support Application of <i>in Loco</i> <i>Parentis</i> Standing in this Case.....	4
C. The Utah Cases Relied Upon By Ms. Jones Do Not Support Standing.....	9
1. <i>Searle v. Searle</i> Supports Cheryl Barlow’s Claims.....	9
2. <i>In re J.W.F.</i> Supports Cheryl Barlow’s Claims.....	10
3. <i>Gribble v. Gribble</i> Supports Cheryl Barlows’ Claims.....	12
D. Overcoming the Parental Presumption is a Prerequisite to Standing.....	14
POINT III:	
APPLICATION OF <i>IN LOCO PARENTIS</i> IN THIS CASE IS UNCONSTITUTIONAL	15
POINT IV:	
THE VISITATION ORDER VIOLATES FIRST AMENDMENT RIGHTS.....	18
POINT V:	
THE TRIAL COURT APPLIED AN INCORRECT LEGAL STANDARD FOR	

	<i>IN LOCO PARENTIS</i> AND FOR THE “BEST INTEREST OF THE CHILD” TEST.....	21
A.	<i>In Loco Parentis</i> Requires a Two-way Relationship.....	21
B.	The Best Interest Test Cannot Be Met with Only Evidence of a Non-parent’s Desire to See the Child and Based Upon Her Past Acts of Caring for the Child.....	22
POINT VI:	PLAINTIFF’S CLAIMS ARE BARRED BY THE DOCTRINE OF <i>RES JUDICATA</i>.....	24
CONCLUSION.....		25
CERTIFICATE OF SERVICE.....		26

TABLE OF AUTHORITIES

CONSTITUTIONAL PROVISIONS

United States Constitution, Amendment 14.....	19
Utah State Constitution, Article I, Sections 7 and 29 (2005).....	19

STATE CASES

<i>Gribble v. Gribble</i> , 583 P. 2d 64, 66 (1978).....	9, 12-13, 25
<i>Hardinger v. Scott</i> , 94 P.3d 252, 257 (Utah 2004).....	16
<i>Hutchinson v. Hutchinson</i> , 649 P.2d 38 (Utah 1982).....	13-15
<i>In re J.W.F.</i> , 799 P.2d 710 (Utah 1990).....	6, 9-14
<i>In re State in the Interests of M</i> , 467 P.2d 1013, 1016-17 (1970).....	6, 7
<i>In Re General Determination of Water Rights</i> , 982 P.2d 65, 69 (Utah 1999).....	24
<i>Kallas v. Kallas</i> , 614 P.2d 641 (Utah 1980).....	17
<i>Salt Lake City v. Silver Fork Pipeline Crop.</i> , 913 P.2d 731, 733 (Utah 1995).....	24
<i>Searle v. Searle</i> , 38 P.3d 307 (Utah App. 2001).	9, 10,
<i>Tucker v. Tucker</i> , 910 P.2d 1209 (Utah 1996).....	17
<i>Utah v. Germanto</i> , 73 P.3d. 978, 981 (Utah 2003).....	16
<i>V.K.S. v. C S.</i> , 63 P.3d 1284, 1290. (Utah App. 2003).....	18
<i>Wilson v. Family Services Div., Region Two</i> , 554 P.2d 227 230 (Utah 1976).....	11, 14

FEDERAL CASES

<i>Anderson v. Liberty Lobby, Inc.</i> , 477 U.S. 242, 248 (1986).....	1
<i>Atena Insurance Co. v. Kennedy</i> , 301 U.S. 389, 393 (1937).....	16
<i>Barker v. Williams</i> , 407 U.S. 514, 526 (1973).....	16

<i>Carnely v. Cochran</i> , 369 U.S. 506, 515 (1962).....	16
<i>Celotex Corp. v. Catrett</i> , 477 U.S. 317 (1986).....	16
<i>Employment Div., Dept. of Human Resources of Ore. v. Smith</i> , 494 U.S. 872 (1990).....	21
<i>Grayned v. City of Rockford</i> , 408 U.S. 104, 108-109 (1972).....	16
<i>Johnson v. Zerbst</i> , 304 U.S. 458, 464 (1938).....	15
<i>Ohio Bell Telephone Co., v. Public Utilities Commission</i> , 301 U.S. 292, 307(1937).....	16
<i>Stanley v. Illinois</i> , 405 U.S. 645, 651 (1972).....	5
<i>Thomas v. Children's Aid Society</i> , 364 P.2d 1029, 1031 (Utah 1961).....	5
<i>Troxel v. Granville</i> , 530 U.S. 57 (2000).....	16
<i>Wisconsin v. Yoder</i> , 406 U.S. 205, 232 (1972).....	18, 20-21

FOREIGN STATE APPEAL CASES

<i>Appel v. Appel</i> , 2005 Wash. LEXIS 356 (April 7, 2005).....	18
<i>Coons v. Anderson</i> , 104 S.W.3rd 630, 636 (Tex.App.– Dallas 2003).....	34,35,37
<i>Kazmierazak v. S. Query</i> , 736 So.2d 106 (Florida 1999).....	19

STATE STATUTES

Utah Code Annotated § 30-5-2 and 30-3-5 (1975).....	9
Utah Code § 30-3-32 (2004).....	23
Utah Code Ann. § 62A-4a-201(2) (2005).....	18
Utah Code Ann. 78-30-1(3)(ii)(b) (2004).....	18
Utah Code Ann. § 78-30-9(3)(a)(2004).....	17
Utah Code Ann. § 78-45-2(6) (Supp. 1990).....	10
Utah Code Annotated § 78-45a-4.1 (2005).....	6
Utah Code Annotated § 78-45a-10.5 (2004).....	7

REPLY ARGUMENT

POINT I

THE “FACTS” RELEVANT TO SUMMARY JUDGMENT AND AT TRIAL ARE THE UNDISPUTED MATERIAL FACTS AS DETERMINED BY THE APPLICABLE LAW

Ms. Jones in her Brief cites only to certain findings of fact that the District Court chose to include in its ruling and order and claims that only those “facts” are relevant to this Court’s inquiry (Ms. Jones Brief, p. 6). However, the relevant factual record in this case includes all undisputed facts supporting summary judgment in addition to relevant uncontested facts at trial, which demand judgment as a matter of law. For example, Ms. Jones pled in her complaint that Cheryl Barlow is a fit parent. In addition, there is no dispute of fact that Cheryl Barlow is the natural biological mother of the child. Cheryl Barlow’s argument has consistently been that judgment should be entered in her favor irrespective of the District Court’s formal Findings of Fact.

Contrary to Ms. Jones’ claims, the undisputed facts in support of Cheryl Barlow’s motion for summary judgment are relevant to the issue of whether summary judgment was incorrectly denied. For purposes of assessing whether the District Court erred in law in failing to grant summary judgment, this Court must accept as true all statements of material facts that were not controverted with admissible evidence. See generally, *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986). Courts must look to the substantive law to determine which facts are material. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986).

A trial court’s formal findings may or may not be material to the asserted legal claims. The factual statements in Cheryl Barlow’s affidavit in support of summary judgment were not controverted with admissible evidence and such facts require judgment in Cheryl

Barlow's favor as a matter of law. These facts, as stated in Cheryl Barlow's affidavit, are as follows:

1. I am the natural and biological mother of the minor child, Gracie Lynne Barlow, born October 4, 2001 and the only custodial parent.
2. Plaintiff, Keri Lynne Jones has no biological or blood relationship to the child in any manner.
3. The same parties to this litigation filed a petition for guardianship on about April 2002 in the Third Judicial District Court for Salt Lake County. On May 1, 2002, the Court entered an order appointing Cheryl Barlow and Keri Jones as co-guardians (See *In Re G.B.*, Case No. 023900497).
4. At the time I was residing with Plaintiff, I was very familiar with Utah law regarding adoption, which does not confer any parental rights upon an unmarried cohabitating partner, regardless of their sexual orientation. For this reason I never believed or intended that Plaintiff would be able to obtain parental rights to my child regardless of the status of our relationship.
5. The parties to this litigation resided together in a same-sex relationship from about February 2001 through November 7, 2003.
6. The relationship between the parties ended in October 2003 when Plaintiff admitted she was having an affair with another woman since about July 2003.
7. During this time period, Plaintiff became increasingly unfriendly toward the minor child, resulting in the child crying and objecting to being with Plaintiff.
8. The parties have not resided together in any manner since November 7, 2003.
9. On November 24, 2003, I filed a Verified Petition for Removal of co-guardianship of Keri Lynne Jones of the minor child. In that Petition, I asserted that I was the sole parent of the minor child.
10. Plaintiff filed an Objection to the Petition on December 22, 2003, denying that I was the sole parent of the minor child. Plaintiff further sought "an immediate order of visitation."
11. Third District Court Judge Paul G. Maughan entered his order on April 21, 2004, removing Jones as the guardian of the minor child. The Court further ruled, "All duties previously performed by said co-guardian shall revert to the natural mother and sole parent of the minor child, Cheryl Pike Barlow."

12. No written or legal documents are in force or effect which tie Plaintiff to the minor child or otherwise give Plaintiff any legal interest in the minor child.
13. Plaintiff has not had any significant contact with the minor child since about November 2003.
14. I have been the primary care-giver of the minor child since the child was born.
15. It is my opinion that it is not in the best interests of my minor child to have ongoing visitation or continued contact with Plaintiff.
16. The last time my minor child saw Plaintiff, in late 2003, she asked who Plaintiff was and acted like she did not know her. The minor child has not expressed any loss or harm from not seeing or having contact with Plaintiff.
17. The minor child is doing very well in all respects in my custody and care and does not have any emotionally or physical problems to my knowledge.

R. 388-90, Affidavit of Cheryl Barlow. Based upon the above, judgment as a matter of law should have been entered by the District Court based upon each ground stated in both the motions to dismiss and for summary judgment.

The formal findings of fact entered by the District Court after each trial, on the other hand, are superfluous to the legal claims continuously raised by the natural mother. For example, it does not matter whether the judge believes the child will “benefit financially¹ and emotionally” if the relationship is re-established between the three-year old child and Ms. Jones. R. 774, ¶ 5-8. Not one of the Findings of Fact by the District Court has any effect on the legal defenses raised in the pre-trial motions and at trial by Cheryl Barlow. The Court must, therefore, accept all undisputed facts which are material to the legal defenses asserted by Cheryl Barlow on summary judgment and at trial.

¹Although Cheryl Barlow’s income of \$40,000 per year should be considered more than adequate to support her and her child, it was another legal error for the court to base its “best interest of the child analysis” on whether the child will “benefit financially and emotionally” in that arguably every child could “benefit” from more money and more emotional involvement.

POINT II

THE DISTRICT COURT LACKS SUBJECT MATTER JURISDICTION

A. The Complaint is Jurisdictional Defective:

Ms. Jones fails to address the fact that her pleadings are defective in that they fail to reference any common law cause of action (i.e. *in loco parentis*), but in fact improperly reference the divorce statutes. While it is true that Utah has “notice pleading,” such fact does not excuse a party from the requirement of alleging sufficient legal and factual bases for jurisdiction. Ms. Jones’ complete lack of any legal basis for standing in her complaint required dismissal. The District Court Judge, therefore, erred in law when he overruled the Commissioner’s recommendation to dismiss the complaint for lack of standing.

B. Utah Common Law and Historical Statutes Do Not Support Application of *in Loco Parentis* Standing in this Case:

Ms. Jones cannot cite to a single Utah case or historical statute which upholds the trial court’s conclusion that *in loco parentis* may be applied to factual situations similar to this case, yet she goes so far to say that Utah Legislative enactments that foreclose standing in this case allegedly violate the “open courts clause” of the Utah Constitution (Appellee’s Brf., p. 10, fn. 2). However, if no common law rights to a minor child were available to a former homosexual partner at common law, then the Legislature is free to foreclose such rights by statutes to unmarried partners, especially when one partner is not a parent of the child. When reviewing a purported common law right, the first question for the Court to ask is whether the Court’s prior decisions grant similar rights based upon a similar fact pattern.

Since no Utah cases address the rights of a former same-sex non-parent partner to a child at common law, the Court should first consider the common law rights of a “live-in boyfriend,” in a non-marital situation in that Ms. Jones is certainly not entitled to more rights than a live-in boyfriend who is the natural father at common law. Counsel is not aware of any cases and Ms. Jones has not cited to any, giving rights to live-in boyfriends as a class of persons against the objections of a fit custodial mother. To the contrary, putative fathers, had no rights to the child at common law. *Thomas v. Children’s Aid Society*, 364 P.2d 1029, 1031 (Utah 1961). Although this case was overruled by statutory changes in Utah’s adoption laws, it is very insightful as to the historical standing of putative fathers in Utah.

In *Thomas*, the putative father lived with the mother at around the time of conception and actually married her before the child was born, but after the child was placed for adoption. *Id.* at 1030. Since Thomas was not divorced from his first wife, however, the marriage was considered void as a matter of Utah statutory law, Thomas, therefore, occupied the position of a live-in boyfriend. The court held,

The putative father of an illegitimate child occupies no recognized paternal status at common law or under our statutes. n10. The law does not recognize him at all, except that it will make him pay for the child’s maintenance if it can find out who he is. n11. The only father it recognizes as having any rights is the father of a legitimate child. n.12.

Id. at 1031-32. The court in *Thomas* rejected constitutional claims of the unwed father.² *Id.*

Under *Thomas* and prior cases, there is no doubt that a live-in boyfriend, who is not a biological father, had no rights or standing to seek visitation against the rights of a natural

²The U.S. Supreme Court began acknowledging the constitutional rights of unwed biological fathers in about 1972. See *Stanley v. Illinois*, 405 U.S. 645, 651 (1972).

mother at common law. A legal, but non-biological, father on the other hand, had standing to seek visitation and custody as discussed in *In re J.W.F.*, 799 P.2d 710 (Utah 1990).

Under Utah common law, a live-in boyfriend, who is the biological father, did not obtain standing to seek custody or visitation of his own child until after 1965, when the Utah Legislature enacted the *Uniform Act on Paternity*, Utah Code Ann. § 78-45a-1. See *In re State in the Interests of M*, 467 P.2d 1013, 1016-17 (1970). Based upon this statutory duty of support, the court in *the Interests of M* reasoned that a “statutory parent-child relationship has been established between the publically acknowledge child and his putative father” which gives the putative father standing to seek custody and control of a child against “all but the mother.” *Id.* at 1017.³ The dissent, accurately stated the previously-understood common law by noting, “the illegitimate father is *not a parent* within the meaning of the law.” (Emphasis in original) *Id.* at 1018. It was the Legislative enactment regarding the duty of support of unwed fathers that became the impetus for acknowledging any rights at all of live-in boyfriends rather than some common law right.

The legal duty to financially support children was in fact an underlying basis of this Court’s acknowledgment of standing in *In re J.W.F.*, 799 P.2d 710, 716 (Utah 1990). *J.W.F.* acknowledged the statutory, rather than common law, duty of a step-parent to support his spouse’s children during their marriage, citing Utah Code Ann. § 78-45-4.1 (1987) and similarly to *in the Interests of M*, re-affirmed the notion that a duty of support can serve as

³The mother had previously relinquished her parental rights when she put the child up for adoption; therefore, the legal battle was between the putative father and the adoptive parents. The common law always acknowledged the rights of an unwed mother as being supreme so long as she was a fit custodial parent.

a basis for standing for a non-biological parent. The District Court in this case tacitly acknowledged the importance of child support in conferring standing upon a non-parent by actually ordering Ms. Jones to pay child support, life insurance, and division of medical insurance premiums and expenses. However, making such orders after conferring standing cannot remedy the fatal fact that Ms. Jones had absolutely no duty to support Cheryl Barlow's child at law or common law during or after their failed relationship. At both common law and under Utah statutes, a live-in boyfriend has no duty of support and, hence, no right to visitation or custody. Ms. Jones certainly does not occupy a better position in terms of standing to seek visitation than a live-in boyfriend, especially against the objections of the natural mother.

While the Utah common law gave no rights to an unmarried father, it gave the highest legal position to the rights of unwed mothers against all others so long as the mother was a fit custodial parent. See *the Interests of M*, 364 P.2d 1016, citing with approval a New Jersey decision holding that the rights of a father who is obligated to pay child support "is not as great as that of the mother...." That Court further cited approvingly an A.L.R. citation which states,

The putative father of an illegitimate child is entitled to its custody and control as against all but the mother....(Emphasis added).

Id. at 1017. Therefore, while the right of an unmarried father historically stems from the legislatively-created duty of child support, the rights of an unwed natural mother have never been diminished in the State of Utah. Even presently, Utah law does not guarantee an unmarried biological father parent-time rights, but only if the court considers it "appropriate

under the circumstances.” Utah Code Ann. § 78-45a-10.5 (2005). This statute further implies that the unwed mother has a far greater right to custody and control of her illegitimate child than does the natural unwed father. These superior rights of an unwed mother undoubtedly arise from the incredible sacrifice a mother makes in carrying a child to term, breast-feeding, nourishing, and nurturing her child. This is especially true in this day and age when mother’s have a right to abort their children and are often encouraged to do so when they are not married.

There is no reason to dilute or undermine these natural maternal rights in the context of a failed same-sex relationship. Ms. Jones does not occupy a legal or factual position that is superior than a “live-in boyfriend” who is the natural father. Undoubtedly many “live-in boyfriends” made commitments to raise their girlfriend’s child similar to any commitment Ms. Jones may have made. Both Utah common law and statutory law have never acknowledged these commitments as enforceable against the rights of a natural mother. This Court should, therefore, treat Ms. Jones as a live-in boyfriend who is not the biological father. Under such circumstances, Ms. Jones has no rights to or duties to the child.

In addition, since a live-in boyfriend, who is the natural father, had no automatic rights to the child prior to legislative enactments, the Legislature is free to preclude further rights in the area of both unmarried same-sex and opposite sex cohabitating couples without violating the Open Courts Clause of the Utah Constitution. It further means that this Court should consider Utah’s Defense of Marriage Act and the adoption statutes as instructive that the Legislature has acted in a way to prevent visitation rights being extended to unwed partners who are not related to the child.

C. The Utah Cases Relied Upon By Ms. Jones Do Not Support Standing:

Cheryl Barlow firmly believes this case can and should be decided based upon Utah law. Both parties can cite cases from other states which disagree on what acknowledgment, if any, a court should give to unmarried cohabitating relationships. In support of her argument, Ms. Jones relies almost exclusively upon three Utah cases to the exclusion of other informative and related cases: *Gribble v. Gribble*, 583 P. 2d 64 (1978); *In re J.W.F.*, 799 P.2d 710 (Utah 1990); and *Searle v. Searle*, 38 P.3d 307 (Utah App. 2001). These cases all involved marital issues either as a legal father and/or a step father and/or pending Juvenile Court petitions to terminate parental rights and they all actually support Cheryl Barlow's claims. While they reference the common law concept of *in loco parentis*, they are incorrectly applied by Ms. Jones and the trial court as follows:

1. *Searle v. Searle* Supports Cheryl Barlow's Claims:

In her Brief on page 10, Ms. Jones cites to *Searle v. Searle*, 38 P.3d 307 (Utah App. 2001) for the idea that the grandparents "had standing *both* because they were *in loco parentis* to the child and based upon Sections 30-5-2 and 30-3-5." (Emphasis in original brief). This statement, however, cannot be found in *Searle*. Instead, the opinion holds,

Grandparents had the right to notice and an opportunity to be heard due to their status as paternal grandparents and temporary custodians under the district court's temporary custody order, thus acting in loco parentis.

Id. at 319. In *Searle*, the mother and father of the child were divorced and the father was the legal father in that the child was born during the marriage.⁴ The divorce decree gave both

⁴Utah statutes and Appellate Courts have a long tradition of consistently legitimizing children born during a marital relationship. The policy is the opposite for children born during a non-marital relationship.

parties “joint legal custody.” *Id.* at 311. The “Father” died while the child was in his physical custody. The grandparents took physical custody and filed a petition in Juvenile Court to terminate the natural mother’s parental rights based upon abandonment of the child. The Juvenile Court granted the Grandparents temporary custody based upon the pending termination petition. *Id.* It was this temporary custody order upon which the court in *Searle* based its conclusion that the Grandparents had a due process right to notice of a collateral tribal court order. The child was in the Grandparents actual physical custody based upon a Juvenile Court order. *Searle* supports Cheryl Barlow’s argument that a non-parent can have standing to assert claims to a child in Juvenile Court, pending a petition to terminate parental rights.

2. *In re J.W.F.* Supports Cheryl Barlow’s Claims:

In re J.W.F., 799 P.2d 710, relied upon by the court, arose out of a step-parent claim by a “legal father.” In the Court’s own words:

The central question before us is what rights, including custodial rights, a husband has in a child born into his marriage who is not his biological offspring. (Emphasis added).

Id. at 712. More importantly, the court did not base its conclusion that the father had standing based upon *in loco parentis*. In fact the short discussion about *in loco parentis* is dicta is found in one footnote. *Id.* at 715, fn 5. The father in *J.W.F.* was granted standing because he was a “step-parent.” He did not need to additionally show he was *in loco parentis* because of the statutory, rather than a common law, duty to support the child as a step-parent based upon (Utah Code Ann. § 78-45-2(6) (Supp. 1990)). *Id.*

The case was brought in the context of a Juvenile Court petition to terminate the parental rights of both the natural mother and father for abuse and neglect. The Court found the child to be “neglected and abandoned.” *Id.* at 712. In this context, the Court cited *Wilson v. Family Services Div., Region Two*, 554 P.2d 227 230 (Utah 1976) for support that a non-parent next of kin relative has “some dormant or inchoate right or interest in the custody and welfare of the children who become parentless, so that they may come forward and assert their claim.” (Emphasis added) *Id.* at 231. *J.W.F.* then states, “According to *Wilson*, inchoate rights entitle the relative to standing to such a hearing to determine custodial fitness.” (Emphasis added). *J.W.F.* 710 P.2d at 715. The underlying petition before the court in *Wilson* was the unfitness of the parents. Since “custodial fitness” was at issue in *Wilson*, the “dormant” or “inchoate” rights of the next of kin became operative and active, entitling them to standing. The mandatory inference is that prior to the allegations that a child is parentless or of unfit parents, the rights of the next of kin remain dormant.

In this case, Ms. Jones cannot rely upon the reasoning of *J.W.F.* unless and until Cheryl Jones is proved to be an unfit or deceased mother. In addition, to unfitness, she would additionally have to be a step-parent, legal father, or near relative. Much has been made by Ms. Jones to another footnote in *J.W.F.* which seems to open the door for non-parents to have standing. However, that footnote cannot be divorced from the context of the Juvenile Court proceedings where the rights of the parents were terminated. The relevant footnote states,

it is conceivable that persons who are not related by blood or marriage, although not presumptively entitled to standing, could show that they had a relationship with the

child that would warrant a grant of standing. We have no such situation before us today. (Emphasis added).

Id. at 715, fn. 4. The emphasized word, “conceivable” clarifies that it would be an extraordinary situation and that the general understanding prevails that a person not related by blood or marriage is presumptively not entitled to standing. Just prior to footnote 4, however, the court states that a person’s “legal relationship” to a child is more important than whether a legal duty to support the child exists. *Id.* at 715. Footnote 4, although dicta, could only apply in the context of parental unfitness or some other scenario where the parents are dead or otherwise not able or willing to care for their child.

In *J.W.F.*, the legal father was not a relative of the child, but he had the requisite “legal relationship” to obtain standing (i.e. step-parent). The parents’ rights were terminated. Ms. Jones’ claims, on the other hand, are against the rights of a fit custodial parent. If Ms. Jones were a relative, her rights would be considered dormant under both *J.W.F.* and *Wilson*. Since she is not a relative, she needed some other “legal relationship.” It was undisputed that Ms. Jones has no legal relationship with the child apart from the claimed *in loco parentis* argument. When this lack of “legal relationship,” as stated in *J.W.F.*, was brought to the trial court’s attention, the court stated that the Vermont civil union was the legal relationship. R. 912, Tr. 454:5 through 455:25. However, Utah law, does not recognize a Vermont civil union, especially in the context of conferring step-parent status for purposes of standing.

3. *Gribble v. Gribble* Supports Cheryl Barlows’ Claims:

Gribble v. Gribble, like other Utah Supreme Court cases, does not stand as an island, but must always be read and applied in the context of prior and following cases of this Court.

For example, *J.W.F.* discusses and explains the holding in *Gribble* as being based upon the step-parent status of the father stating,

The court in *Gribble* actually required that the stepparent stand in loco parentis to the child before he would be granted a hearing. The court was interpreting *Utah Code Ann. § 30-3-5 (1953)*, as amended, which state that, “visitation rights of parents, grandparents and other relatives shall take into consideration the welfare of the child.”

J.W.F., 799 P.2d at 715. The court in *J.W.F.* refers to *Gribble* as a stepparent case based upon Utah divorce laws. *Id.* As construed by *J.W.F.*, step-parent status was necessary in *Gribble*, but not sufficient to gain standing. The step-parent status in *Gribble* provided the necessary legal relationship, but he also needed to prove a factual relationship of *in loco parentis*.

Moreover, *J.W.F.* favorably cited *Hutchinson v. Hutchinson*, 649 P. 2d 38, 41 (Utah 1982) for the proposition that the status of a step-parent can provide a basis for standing regarding visitation issues of a minor child. *J.W.F.* referred to *Hutchinson* as providing the factors to consider in determining the best interests of a child. *J.W.F.* 799 P.2d at 715-716. *Hutchinson*, however, required that a step-parent overcome the parental presumption before the court could even consider the best interests of the child in determining the visitation rights of a step-parent. *Hutchinson v. Hutchinson*, 649 P.2d 38, 40-41 (Utah 1982). Certainly *Gribble*, decided in 1978, cannot overrule *Hutchinson*, which was decided four years later. Therefore, *Gribble* does not create any new rights for a non-parent to seek visitation nor does it obviate the necessity that a non-parent must first rebut the parental presumption before a court can evaluate whether visitation is in the child’s best interests. It merely stands for the proposition that in a divorce context, a step-parent may obtain

standing to seek visitation based upon Utah's divorce laws that allow a relative to seek visitation in a divorce proceeding. Furthermore, based upon *J.W.F. and Wilson*, a non-parent's rights to seek *in loco parentis* standing is dormant until the natural parent is unable or unwilling to care for the child. Only then, will a non-parent stand in the position of a relative to the child for purposes of custody or visitation.

D. Overcoming the Parental Presumption is a Prerequisite to Standing:

Ms. Jones completely fails to address Utah's requirement that a non-parent must overcome the parental presumption before a court may consider the best interests of the child. Noticeably absent in Ms. Jones' brief is any reference or discussion of *Hutchinson v. Hutchinson*, 649 P.2d 38.

In *Hutchinson*, the parties married in 1975 seven months after the mother gave birth to Lacy. Two other children were born during the marriage, but the parties divorced in 1980. The husband was named as the Father on the birth certificate of Lacy, he treated the child in "every way" as his own, and Lacy "considers him her father both psychologically and biologically." *Id.* at 40. The trial court granted the husband custody of all three children. Although neglect of the children by the natural mother was shown at trial, the Utah Supreme Court reversed the decision because the trial court failed to first require the husband to rebut the mother's parental presumption.

Without a doubt, Ms. Jones does not stand in a stronger position either legally or factually than did the husband in *Hutchinson*. The fact that Lacy was five years old and had two younger siblings who were born during a lawful marriage were certainly compelling factors to the court. However, these facts were not sufficient to overlook and ignore the

parental presumption in *Hutchinson*. Ms. Jones, on the other hand, was never the step-parent of Gracie Lynn Barlow. The birth certificate never referenced Ms. Jones as a parent and since 2003, it has not referenced Ms. Jones' name as a middle name of the child.

This Court's decision in *Hutchinson* is not related to or dependent upon what courts in New Jersey, Rhode Island, Massachusetts, or Colorado may do in terms of undermining the rights of natural parents in favor of non-parents. This Court can and should dispose of this case in Cheryl Barlow's favor based solely upon *Hutchinson*. The fact that Ms. Jones is not a step-parent provides an even more compelling reason. In no event, however, will Utah statutory or common law allow this Court to treat Ms. Jones better than the step-parent in *Hutchinson*.

POINT III

APPLICATION OF *IN LOCO PARENTIS* IN THIS CASE IS UNCONSTITUTIONAL

In her brief Ms. Jones cites several recent State court rulings holding that a parent who allows a non-parent to establish a parent-like relationship with their child effectively waives their Constitutional rights to control the child's future association with that person. (See Appellee's Br. 26-27). However, such a ruling in this particular case would conflict with long-standing United States Supreme Court precedent that an individual cannot waive a fundamental Constitutional right unintentionally, or without full knowledge that her actions constitute a waiver. It would also violate Ms. Barlow's due process rights because Utah law did not put her on notice of such a drastic and far-reaching legal harm.

The U.S. Supreme Court defines waiver as the "intentional relinquishment or abandonment of a known right or privilege." *Johnson v. Zerbst*, 304 U.S. 458, 464 (1938),

Barker v. Williams, 407 U.S. 514, 526 (1973). The High Court has repeatedly held that, when confronted with circumstances in which a waiver could be inferred from an individual's actions or inaction, courts should "Indulge every reasonable presumption against waiver" and should never "Presume acquiescence in the loss of fundamental rights." *Id.*, *Atena Insurance Co. v. Kennedy*, 301 U.S. 389, 393 (1937), *Ohio Bell Telephone Co., v. Public Utilities Commission*, 301 U.S. 292, 307(1937). In criminal cases, for example, the Court has held that a defendant cannot waive his right to counsel unless there is both an explicit offer of counsel and an intelligent rejection of the offer. *Carnely v. Cochran*, 369 U.S. 506, 515 (1962). (Emphasis Added). "Anything less is not a waiver." *Id.*

Both the U.S. Supreme Court and the Utah Supreme Court have repeatedly held that a fit legal parent has a fundamental Constitutional right to control the associations of her minor children. *Troxel v. Granville*, 530 U.S. 57, 72-73 (2000); *Hardinger v. Scott*, 94 P.3d 252, 257 (Utah 2004). To waive this right Ms. Barlow would have had to have been put on notice, prior to entering into her extra-legal parenting arrangement with Ms. Jones, that Utah law would grant parental rights to Ms. Jones once their relationship ended. It is a fundamental principal of Due Process that a person cannot suffer legal harm unless existing law is sufficiently clear to put a reasonable person on notice that legal harm will result from one's actions. *Utah v. Germanto*, 73 P.3d. 978, 981 (Utah 2003), *Grayned v. City of Rockford*, 408 U.S. 104, 108-109 (1972). The Supreme Court has more specifically held that absent sufficient warning, there is no consent to the loss of fundamental constitutional rights. *Ohio Bell*, 301 U.S. at 307.

It is undisputed that Cheryl Barlow never fathomed that Utah law would grant Ms. Jones parenting rights once their relationship ended. See R. 389, ¶ 4. No Utah court has ever applied the *in loco parentis* doctrine to a child parented by a lesbian partner within an unrecognized cohabitating relationship. To the contrary, Utah case law evidences a clear disapproval of homosexual partnerships. *Tucker v. Tucker*, 910 P.2d 1209, 1213 (Utah 1996), *Kallas v. Kallas*, 614 P.2d 641, 643-45 (Utah 1980). Utah statutes also indicate Utah's unmistakable preference that children be raised in single parent homes rather than in homes with cohabiting non-marital partners. Utah Code Ann. 78-30-1(3)(ii)(b), 78-30-9(3)(a). If anything, Utah's adoption statute indicates that Utah law preferred that Ms. Barlow's and Ms. Jones' parenting relationship end and that Ms. Barlow raise Gracie in a single parent home.

In any event, neither Utah case law nor statutory law gave Ms. Barlow any warning that she was relinquishing any fundamental legal rights as Gracie's natural mother by entering into an unofficial co-parenting relationship with Ms. Jones. In fact, she had every reason to believe that Utah law would completely ignore their unofficial parenting arrangement. She certainly did not have enough warning to execute an informed and intelligent waiver of her Constitutional rights.

Indeed, there is significant evidence that both Ms. Barlow and Ms. Jones were keenly aware that Utah law ignored, and would continue to ignore, their extra-legal parenting relationship. The purpose of establishing Ms. Jones' legal guardianship over Gracie was to overcome Ms. Jones' acknowledged lack of legal authority to parent Gracie, or to become her guardian in case of Ms. Barlow's death. The fact that Ms. Barlow took legal steps to insure that her (then current) wish that Ms. Jones function as Gracie's guardian is irrefutable

evidence that she perceived Utah's law as not recognizing their unofficial parenting arrangement. Moreover, Utah law further gives a fit natural mother the right to terminate a co-guardianship at any time, regardless of whether doing so is in the "best interests of the child" as determined by a court. See *V.K.S v. C.S.*, 63 P.3d 1284, 1290 (2003). This legal posture broadcasts the unequivocal message that Utah law zealously protects the rights of fit legal parents against all interested third parties, including the state.

Given these facts, this Court cannot reasonably conclude that when their parenting relationship began, existing Utah law afforded Ms. Barlow with actual or constructive notice that their arrangement constituted a waiver of her fundamental constitutional rights as a parent. Given the Supreme Court's jurisprudence on the waiver of fundamental constitutional rights, and its longstanding insistence that Due Process requires the law to provide sufficient notice of impending legal harm, this court should acknowledge Ms. Barlow's retained fundamental rights to control her daughter's associations, and refuse to apply contrary foreign state case law.

A fit natural parent retains the right to determine the associations of her child absent the state's compelling state interest and employing the least restrictive means. See *Wisconsin v. Yoder*, 406 U.S. 205 (1972); Utah Code Ann. § 62A-4a-201(2) (2005); and *Appel v. Appel*, 2005 Wash. LEXIS 356 (April 7, 2005). Given the high strict scrutiny standard applicable to this case, this Court cannot accept Ms. Jones' invitation to find a waiver of Cheryl Barlow's fundamental rights.

POINT IV

THE VISITATION ORDER VIOLATES FIRST AMENDMENT RIGHTS

Appellee incorrectly claims that Cheryl Barlow did not raise below the issues that her First Amendment rights to privacy, association, and religious expression are violated by the Court's visitation order. In fact, these issues, although combined in the general right of a fit parent to raise their children as they choose, were raised throughout the proceedings.

In Cheryl Barlow's Memorandum in Support of Motion to Dismiss brought at the close of the Plaintiff's case in the first trial on October 18, 2004 she asserted,

The common law concept of in loco parentis is unconstitutional under the Fourteenth Amendment of the United States Constitution and Article I, Section 7 of the Utah Constitution as applied to this case in that it violates Defendant's substantive due process rights to make associational, religious, and child-rearing decisions for her minor child.

R. 630. Emphasis added. In Cheryl Barlow's Trial Memorandum dated November 8, 2004, she references in paragraph 10 that "The Court has failed to acknowledge Defendant's constitutional and statutory presumption that, as a fit parent, she makes child-rearing and associational decisions which serve the best interests of her minor child." R. 706. Later in that same memorandum, she argues,

As stated many times, Defendant is a fit custodial parent and the United States and State constitutions protect Defendant in making associational decisions for her minor child. In addition, however, Defendant also has rights of privacy secured by the First Amendment and made applicable to the States by the Fourteenth Amendment. This right of privacy is violated when a fit parent is forced to require her minor child to associate with a third party. See generally *Kazmierazak v. S. Query*, 736 So.2d 106 (Florida 1999)."

R. 710-711. Further, in closing argument counsel expressly raised privacy and First Amendment issues and stated that such was a separate and additional "ground" relied upon by Cheryl Barlow. R. 913, Tr. 175:21 through 176:3.

Moreover, prior to the Court entering its final order⁵ and as part of her motion to stay the district court visitation order, Cheryl Barlow raised throughout her memorandum and affidavit the fact that her privacy, associational, and religious rights would be violated if the visitation order was implemented. See, R. 829-32, 834, 836, 837, 839, and 844-45. Ms. Jones on pages 30-31 of her brief complains that the issues raised on the Motion to Stay are insufficient. However, there was no way for Cheryl Barlow to know that the trial court would have ordered visitation on Sunday and that such would escalate to every other Sunday for the rest of the child's minority. This issue did not become a factor until the Court entered the final order on December 2, 2004. It is surely appropriate to raise on appeal the constitutional impact of a court order, especially when the impact on religious convictions could not have been fully appreciated prior to the entry of the order. Cheryl Barlow could not have reasonably guessed that the order would have impacted her Sunday religious expression and her ability to provide religious training to her child before the visitation order was entered. Therefore, these issues are properly before this Court.

In addition to the above, throughout the trial court proceedings, Cheryl Barlow relied upon *Wisconsin v. Yoder* which is undoubtedly one of the seminal cases dealing with the combined rights of parents and their religious expression. In several trial court memoranda Cheryl Barlow quoted *Yoder* because the case recognizes "the traditional interest of parents

⁵For unexplained reasons, Cheryl Barlow's affidavit, motion, and memorandum appear on the docket as being filed after the Court's order and even after Ms. Jones' reply to the motion. A careful look at R. 824, however, shows it was filed at 10:53 a.m. on December 2, 2004, while Ms. Jones' opposing memorandum was filed at 3:14 p.m. According to the clerk, the Judge signed the final order late in the afternoon of December 2. Cheryl Barlow's motion, memorandum, and affidavit were also hand-delivered to the Judge early that morning.

with respect to the religious upbringing of their children.” *Wisconsin v. Yoder*, 406 U.S. at 214 and that parents enjoy the right to teach “moral standards, religious beliefs, and elements of good citizenship.” *Id.* at 233. More recently, United States Supreme Court cases have referred to *Yoder* as a “hybrid case” because both rights of religious freedom and parental rights are intertwined and thus provide more protection and strict scrutiny. See *Employment Div., Dept. of Human Resources of Ore. v. Smith*, 494 U.S. 872 (1990).

In this case, Cheryl Barlow’s rights as a parent are intertwined with her religious, association, and privacy rights under the First Amendment. It is, therefore, impossible to raise one without the other. Although she generally raised her rights to privacy, association, and religious expression several times before the trial court, this Court has entertained important constitutional issues even if raised for the first time on appeal. See, *State v. Gibbons*, 740 P.2d. 1309 (Utah 1987). Since the rights were generally raised and because the impact on Cheryl Barlow’s rights were not known until after the final order was entered, this case presents an appropriate opportunity to entertain all First Amendment issues on appeal.

POINT V

THE TRIAL COURT APPLIED AN INCORRECT LEGAL STANDARD FOR *IN LOCO PARENTIS* AND FOR THE “BEST INTEREST OF THE CHILD” TEST.

A. *In Loco Parentis* Requires a Two-way Relationship:

Ms. Jones fails to respond to the fact that no evidence at trial demonstrated that the child had a relationship with Ms. Jones. The only evidence found and relied upon by the Judge was that Ms. Jones cared for the child. R. 754, ¶¶ 7-8. The Court then inferred from this that the child had a relationship or “bond” with Ms. Jones. However, the child could not

speak. The only evidence in the record regarding how the child reacted towards Ms. Jones was submitted by Cheryl Barlow which stated, the last time the child saw Jones in late 2003, she asked who Jones was and acted like she did not know her. The minor child never expressed any loss or harm from not seeing or having contact with Jones. R. 388-92, Affidavit of Cheryl Barlow, ¶ 16. This evidence was not rebutted in any manner at trial. To the contrary, Cheryl Barlow provided the only evidence on the well-being of the child in relationship to the absence of Ms. Jones.

Obviously if the child had been older, say 5 or 6, more evidence could have possibly been admitted regarding the child's feelings and any emotional attachment or lack thereof. To some degree, this is appropriate since the grant of standing based upon *in loco parentis* should be based upon a long-term relationship and not less than two years. However, the burden of proving that Gracie had a relationship with Ms. Jones was Ms. Jones' to bear in that *in loco parentis* requires not only that the adult love and care for the child, but that the child loves and cares for and needs the adult parent figure. One cannot have a one-sided *in loco parentis*. It takes both the child and the adult, not merely that the adult cared for the child and treated the child like her own. Ms. Jones did not provide any evidence on this critical element needed to prove *in loco parentis*. This complete absence of proof cannot be "marshaled" because there is nothing to marshal. More importantly, the Court applied an incorrect legal standard of *in loco parentis* by failing to require evidence of a mutual two-way relationship.

B. The Best Interest Test Cannot Be Met with Only Evidence of a Non-parent's Desire to See the Child and Based Upon Her Past Acts of Caring for the Child:

Since Ms. Jones is not a parent, the normal presumption that it is in the best interests of a child to have substantial time with a parent does not apply. See Utah Code § 30-3-32. Instead, the Court would have had to find that the child was not doing well or in substantial need of visitation with Ms. Jones. At a minimum, Ms. Jones should have introduced evidence and the Court should have made a finding of fact that the child would be harmed without visitation with Ms. Jones. Interestingly, even most of the foreign-state cases cited by Ms. Jones in her brief require a showing of harm to the child before granting rights to a “de facto” or “psychological parent.” No finding was made by the district court that the child would be harmed without contact with Ms. Jones. Instead, the Court merely found that the child would “benefit financially and emotionally” from re-establishing the relationship. See R. 781, ¶ 1. The Court, as a matter of law, should have first determined that the child was being denied financial and emotional necessities or some how in need of greater support financially and emotionally than she was getting.

The Court’s findings of fact regarding the best interest of the child focus exclusively upon the childcare-type function performed by Ms. Jones. R. 774-775. While these acts may be generally laudable, such acts do not require a court to “re-establish” a relationship with a child and they are insufficient to form a basis for concluding that the best interests of the child are served by re-establishing visitation.

At trial, the only evidence bearing on the best interest of the child was obtained through Cheryl Barlow’s testimony. She testified that one boy she new had no less than seven mother figures in his life and she did not want this lifestyle for her daughter. R. 913, Tr. 121:4-13. She further testified that there was no relationship at all between Gracie and Ms. Jones and that

there had been no contact between the two for over a year and that visitation would be “extremely damaging to Gracie” and that Gracie would be “completely confused.” *Id.* at Tr. 125:23 through 126:6. Cheryl was further very concerned about the child being confused in being re-introduced the a concept of two mommies.

Prior to the trial court’s visitation order, the child was doing very well in all respects in the custody and care of Cheryl Barlow and did not have any emotional or physical problems. R.388-92, Affidavit of Cheryl Barlow, ¶ 17. It was improper as a matter of law for the court to proceed to evaluate visitation issues when Ms. Jones failed to demonstrate and the Court failed to find that the child was harmed substantially by the termination of the relationship between Ms. Jones and the child.

POINT VI

PLAINTIFF’S CLAIMS ARE BARRED BY THE DOCTRINE OF *RES JUDICATA*

Appellee admits on one hand that Cheryl Barlow had an absolute right to set aside the co-guardianship as the sole natural parent, yet on the other hand claims that such parental rights arguments have no place in this present proceeding. However, *res judicata* bars both claims that were litigated and those which could have been. *In Re General Determination of Water Rights*, 982 P.2d 65, 69 (Utah 1999); *Salt Lake City v. Silver Fork Pipeline Crop.*, 913 P.2d 731, 733 (Utah 1995). Cheryl Barlow was adjudicated as the sole parent and all duties and obligations of Ms. Jones were terminated by the entry of the order in the collateral proceeding. See R. 386-87. These issues cannot be re-litigated in the present lawsuit. Terminating the co-guardianship was akin to terminating parental rights on a lower level. Moreover, Ms. Jones fails to provide any authority or argument for why she failed to raise the

in loco parentis issue in the guardianship proceeding. Ms. Jones has asserted essentially that she is a second parent to the child in these proceedings. Such an argument would have been relevant in defending against a petition to terminate a co-guardianship. Therefore, all visitation claims are barred by *res judicata*.


CONCLUSION

The trial court admitted it was chartering new territory and it defended such conduct by stating that is what Judges are suppose to do. R. 913, Vol. III, Tr. 194:3-5. It incorrectly relied upon *Gribble v. Gribble* to the exclusion of other statutes and case law addressing the rights of unmarried, non-parents against the rights of natural parents. Under the trial court's reasoning, the sanctity of natural blood relationships is diminished, elevating non-marital cohabitation above that of marriage in what amounts to an adverse possession of a child.

The trial court's decision opens a pandora's box that cannot be controlled with coherent legal reasoning by begging such as, how long does it take to obtain *in loco parentis* rights? Five years? Two years? Two months? How many mothers can one child have when science shows there can only be one? Do live-in boyfriends now have rights to petition for visitation of their former girlfriend's child?

Historically these questions were easy to decide: the rights of a natural fit parent always trump the rights of any other person. This Court should affirm the fundamental rights of parents to determine associations, religious training, and lifestyles for their children.

Respectfully Submitted this 5th day July, 2005.

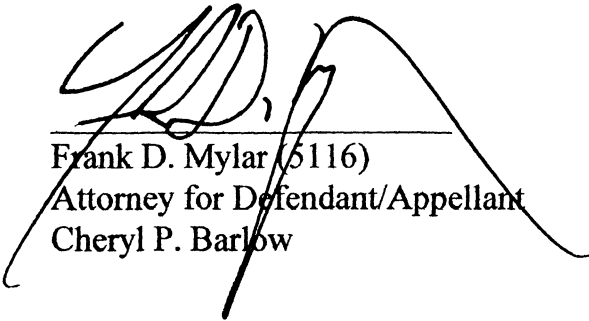

FRANK D. MYLAR (5116)
Attorney for Defendant/Appellant

CERTIFICATE OF SERVICE

I certify that on this 5th day of July, 2005, I caused to be HAND-DELIVERED, two exact copies of Appellant's Reply Brief to Appellee's Counsel at the following address:

Lauren R. Barros, Esq.
Lauren R. Barros, P.C.
Kathryn Kendell, Esq.
National Center for Lesbian Rights
261 East 300 South, Suite 300
Salt Lake City, Utah 84111

Attorney for Plaintiff-Appellee, Keri Lynne Jones



Frank D. Mylar (5116)
Attorney for Defendant/Appellant
Cheryl P. Barlow