

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

HODES & NAUSER, M.D.'s, P.A.) Civil Action
HERBERT C. HODES, M.D., and)
TRACI LYNN NAUSER,) No. 11-2365-CM-KMH
)
Plaintiffs,)
and)
)
CENTRAL FAMILY MEDICAL, LLC,)
dba AID FOR WOMEN, and)
RONALD N. YEOMANS, M.D.,)
)
Plaintiffs/Intervenors,)
)
v.) NOTICE OF APPEAL
)
ROBERT MOSER, M.D., in his official capacity)
as Secretary of the Kansas Department of Health)
and Environment; STEPHEN HOWE, in his)
official capacity as District Attorney for Johnson)
County; JEROME GORMAN, in his)
official capacity as District Attorney for)
Wyandotte County; and DEREK SCHMIDT, in)
his official capacity as Attorney General for the)
State of Kansas,)
)
Defendants.)

Notice is hereby given that the American Association of Pro-Life Obstetricians and Gynecologists (“AAPLOG”), a movant for intervention in the above-captioned action, hereby appeals to the United States Court of Appeals for the Tenth Circuit from the Order (docket item #30) granting Plaintiffs’ motion for a preliminary injunction, entered in this action on the 1st day of July, 2011.

AAPLOG files this Notice of Appeal protectively, to ensure jurisdiction in the Court of Appeals under FED. R. APP. P. 4(a)(1)(A), should the District Court or the Court of Appeals subsequently allow its intervention. This Circuit recognizes such protective

appeals. *See, e.g., Production Credit Ass'n v. Alamo Ranch Co.*, 989 F.2d 413, 417 (10th Cir. 1993) (holding that “Defendant reasonably filed a protective notice of appeal”).

Dated: August 1, 2011

Respectfully submitted,

Local Counsel

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*Motion for Admission *Pro Hac Vice* to be filed

ATTORNEYS FOR MOVANT APLOG

CERTIFICATE OF SERVICE

I hereby certify that on August 1, 2011, I electronically filed a true and accurate copy of the foregoing Notice of Appeal with the Clerk of the Court using the Electronic Case Filing system, which I understand to have caused service of all the counsel of record in this case.

/s/ Thomas M. Dawson