

NO. A11-290

State of Minnesota
In Court of Appeals

OFFICE OF
APPELLATE COURT

APR 13 2011

FILED

Beverly Butts, by and through her Power of Attorney, Kathy Iverson;
Kenneth Hojberg, by and through his Power of Attorney,
LeeAnn Hojberg; Clare Knutson, by and through his Power of
Attorney, Paul Knutson; and Sylvia Wulff, by and through her Power
of Attorney, Morris Blom,

Respondents,

vs.

The Evangelical Lutheran Good Samaritan Society, individually and
d/b/a Good Samaritan Society – Albert Lea,

Appellants,

vs.

Brianna Broitzman, Ashton Larson, Alicia Heilmann
and Kaylee Nash,

Co-Appellants.

INFORMAL REPLY BRIEF OF CO-APPELLANTS

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ARGUMENT

Co-Appellants Brianna Broitzman, Ashton Larson, Alicia Heilmann, and Kaylee Nash (collectively "Individual Defendants") respectfully submit this Informal Reply to the brief of Respondents.

Respondents state they "do not argue that plaintiffs' claims survive in Minnesota." (Resp. Br. at 5.) This constitutes a concession that the Individual Defendants are entitled to judgment as a matter of law. Nevertheless, Respondents suggest the Court can somehow affirm the district court's denial of summary judgment because "[t]he district court treated the motions as a motion for dismissal noting that limited discovery had occurred." (*Id.* at 22.) This is irrelevant because summary judgment is required when as here a "party is entitled to a judgment as a matter of law." Minn. R. Civ. P. 56.03. Accordingly, the Court should reverse the district court, order dismissal with prejudice, and direct that judgment be entered in the Individual Defendants' favors.

BASSFORD REMELE
A Professional Association



Dated: April 11, 2011

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