

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF IOWA**

<b>PAUL GERLICH and ERIN FURLEIGH,</b> Plaintiffs,  v.  <b>STEVEN LEATH, WARREN MADDEN, THOMAS HILL, and LEESHA ZIMMERMAN,</b> Defendants.	CASE NO. 4:14-cv-00264  <b>DEFENDANTS' NOTICE OF APPEAL</b>
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COME NOW DEFENDANTS, Steven Leath, Warren Madden, Thomas Hill, and Leesha Zimmerman (collectively “Defendants”) by and through undersigned counsel, and pursuant to 28 U.S.C. §1291 and Federal Rules of Appellate Procedure 3 and 4, hereby give notice that said Defendants appeal to the United States Court of Appeals for Eighth Circuit as a matter of right from:

1. The District Court’s January 25, 2016, Judgment and the related Order—granting in part and denying in part Defendants’ Motion for Summary Judgment and granting in part and denying in part Plaintiffs’ cross-Motion for Summary Judgment—which, among other things, denied qualified immunity<sup>1</sup> to Defendants Steven Leath, Warren Madden, Thomas Hill, and Leesha Zimmerman as to the civil rights claim brought pursuant to 42 U.S.C. § 1983; and
2. Any and all rulings adverse to Defendants in said Judgment and Order.<sup>2</sup>

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<sup>1</sup> See *Mitchell v. Forsyth*, 472 U.S. 511, 530 (1985) (“Accordingly, we hold that a district court's denial of a claim of qualified immunity, to the extent that it turns on an issue of law, is an appealable “final decision” within the meaning of 28 U.S.C. § 1291 notwithstanding the absence of a final judgment.”).

<sup>2</sup> Defendants’ Civil Case Notice of Appeal Supplement is attached hereto.

Respectfully submitted,  
**THOMAS J. MILLER**  
Attorney General of Iowa

/s/ TYLER M. SMITH  
**TYLER M. SMITH**  
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ATTORNEY FOR DEFENDANTS

*Original filed electronically.*

*Copy electronically served on all parties of record.*

**PROOF OF SERVICE**

The undersigned certifies that the foregoing instrument was served upon each of the persons identified as receiving a copy by delivery in the following manner on February 4, 2016:

- |   |  |
|---|--|
| <input type="checkbox"/> U.S. Mail  | <input type="checkbox"/> FAX               |
| <input type="checkbox"/> Hand Delivery  | <input type="checkbox"/> Overnight Courier |
| <input type="checkbox"/> Federal Express  | <input type="checkbox"/> Other             |
| <input checked="" type="checkbox"/> ECF System Participant (Electronic Service) |  |

Signature: /s/ BETTY CHRISTENSEN

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF IOWA  
OFFICE OF THE CLERK  
P. O. BOX 9344  
DES MOINES, IA. 50306-9344  
515-284-6248

## Civil Case Notice of Appeal Supplement

COUNSEL FOR APPELLANT PLEASE COMPLETE AND SUBMIT WITH NOTICE OF APPEAL

Case Name: \_\_\_\_\_ vs. \_\_\_\_\_

District Court Case # \_\_\_\_:\_\_\_\_ - cv - \_\_\_\_\_

Appeal Fee (\$505.00) Status Pd\_\_\_\_ IFP\_\_\_\_ Pending\_\_\_\_ Govt. Appeal\_\_\_\_

Counsel Appointed\_\_\_\_ CJA\_\_\_\_ Retained\_\_\_\_ Pro Se\_\_\_\_

Appeal filed by Counsel\_\_\_\_ Pro Se\_\_\_\_

Any reason why counsel should not be appointed\_\_\_\_\_

Pending post Judgment motions: Yes\_\_\_\_ No\_\_\_\_

Type of Motion(s)\_\_\_\_\_

High Public Interest Case Yes\_\_\_\_ No\_\_\_\_

Simultaneous Opinion Release Requested Yes\_\_\_\_ No\_\_\_\_

Trial Held Yes\_\_\_\_ No\_\_\_\_

Jury Trial Held Yes\_\_\_\_ No\_\_\_\_

Court Reporter Yes\_\_\_\_ No\_\_\_\_ Length of Trial \_\_\_\_\_

Reporter's Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Phone \_\_\_\_\_

Transcript Ordered Yes\_\_\_\_ No\_\_\_\_

**Appealing:** Order prior to final judgment\_\_\_\_ Final Judgment\_\_\_\_

Completed Form "A" Enclosed Yes\_\_\_\_ No\_\_\_\_