

303 E. Broad Street
Columbus, OH 43215

April 14, 2014

Office of the Clerk
United States Court of Appeals for the Sixth Circuit
540 Potter Stewart U.S.Courthouse
100 E. Fifth Street
Cincinnati, OH 45202

**Re: Rule 28(j) Citation of Supplemental Authorities in LPO v. Husted,
No. 14-3230**

Dear Clerk of Court,

In his Reply (at page 1) to Appellants' Response to his Motion to Dismiss, Felsoci cites FRAP 10(b)(2) in support of his Motion. Appellants' challenge is a facial one under the First Amendment necessitating *de novo* review of the District Court's legal conclusions. Appellants do not challenge factual findings made by the District Court as not being supported by the evidence. The following cases make clear that Rule 10(b)(2) only requires transcripts when appellants are challenging factual findings by juries and District Courts as not being supported by the evidence.

Spurling v. Allstate Indemnity Co., 487 Fed. Appx. 982 (6th Cir. 2012) (holding that cannot challenge jury's factual findings without transcript).

In re United Producers, Inc., 526 F.3d 942, 949 n.4 (6th Cir. 2008) (holding that cannot challenge factual findings without transcript).

Hawley v. City of Cleveland, 24 F.3d 814, 821 (6th Cir. 1994) ("the sufficiency of the evidence to support a verdict cannot be challenged on appeal in the absence of either a transcript or a statement of the evidence in narrative form").

McLaurin v. Cole, 46 Fed. Appx. 802, **2 (6th Cir. 2002) (even when challenging factual findings, "we have not required a transcript ... where the appellees are neither misled nor prejudiced by the appellant's failure to provide a trial transcript or statement of the case").

Respectfully submitted,

s/Mark R. Brown

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CERTIFICATE OF SERVICE

I certify that copies of this letter was filed using the Court's electronic filing system and will thereby be electronically delivered to all parties through their counsel of record.

s/Mark R. Brown

Mark R. Brown