

Jill Stanek

With her typing fingers on the pro-life pulse

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Abortion clinic threatens lawsuit; pro-life group responds, "Make our day."

In January the **Center for Bio-Ethical Reform** posted what it called "the most shocking 4-minute abortion debate you will ever see."

CBR juxtaposed a video produced by **Northland Family Planning Centers** touting "the goodness" of abortion with video cuts showing the reality of abortion.



Northland is a late-term abortion chain of 3 mills in **Michigan** that aborts babies up to 24 weeks old. CBR merely showed what that looks like. I thought truth in advertising was a good thing?

We know it's not, when it comes to abortion. On March 18 Northland's bottom-feeding attorneys, **Simpson Thacher & Bartlett LLP**, shot CBR a **warning letter** to cease and desist use of Northland's video. I strikes me as funny that they were forced to cite CBR's title. Doing so must have made them gag. Click to enlarge...

Northland has not authorized any of the foregoing uses of its copyrighted material. Northland demands that this unauthorized use of copyrighted material cease immediately and that all videos entitled "The Most Shocking (graphic imagery), Four-Minute, Abortion Debate You Will Ever See!"—and any other videos containing Northland's copyrighted material—be removed from all places they are posted on the CBR website and Pro-Lifetube.com at once, as well as anywhere else you or your agents have

Yesterday CBR's attorney from the **Thomas More Law Center** volleyed back a "see you in court" letter to Northland's attorneys stating, "my clients would welcome the opportunity to defend their position in a court of law should you be so reckless as to follow through with your hollow threat to sue them."

TMLC cited the "fair use" doctrine, of which I, myself, am fully aware. Every now and then I receive a similar threat to remove photos, etc, that I've gleaned from pro-abort websites and **Facebook**. Just received 2 last week, coincidentally. Fortunately, a wonderful attorney provided me by the **Alliance Defense Fund** fend off pests for me, which I really appreciate.

About Northland's video **Gregg Cunningham** of CBR observed in an email:

As this abortion clinic's saleswoman was filming her commercial ad, just down the hall, safely out of sight of the camera, viable babies were being tortured to death, without benefit of anesthesia – babies so far along in pregnancy that they would have been born alive had their mother's labor been induced before killing them.

The outrage here isn't merely the ages of the babies they are killing. Every abortion is horrific at any age. The real scandal is that this



Who Is Jill Stanek?

Jill Stanek is a nurse turned speaker, columnist and blogger, a national figure in the effort to protect both preborn and postborn innocent human life.

assassin, disguised as some sort of prim and proper school marm, complete with conservatively styled hair, starched blouse and horn-rimmed glasses, looks straight into the camera and tells lie after lie, for the purpose of tricking vulnerable, desperate women – and young girls – into an unimaginably ruinous mistake. Her manner is shrewdly calculated to be matter-of-fact and reassuring. Her purpose is to disarm her victims and lure them into a carefully laid trap....

The narrator in this abortion industry video was engaging in speech which was both commercial and political. Selling abortion is about reinforcing and exploiting maternal ignorance. It is about telling lies to perpetrate business fraud. Keeping abortion legal is about deceptive political speech intended to fabricate the fiction that abortion is a nominal evil best left to personal discretion. It is about reinforcing and exploiting voter ignorance. Northland not only demands the right to manipulate prospective victims (mothers and voters) with unconscionable falsehoods but they then have the effrontery to threaten anyone who dares rebut their claims.

All we have done is force open the door down the hall from the Northland narrator's office. Without saying a word, we simply show viewers the reality which Northland's narrator struggles to distort. Is abortion an expression of "love" or a vicious act of violence? We tacitly challenge viewers to decide whether they are going to believe what they hear or what they see – with their own eyes. Hucksters can spin the facts but the camera records the truth.

Here is CBR's video. **WARNING: Very graphic....**

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Do's

- "Criticize ideas, not people."
- Create one original moniker and stick with it.
- Please use a unique name.



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What the Media says »

Quote of the Day

*This is definitely something you can't imagine what it would feel like so **the little kicks, the movements, it makes it all the more real.***

~Ivanka Trump commenting on her unborn baby's kicks, **People.com**, May 5



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- Lunch Break: "Carousel" soliloquy
- Pro-life teen flash mob surprises California Planned Parenthood teen rally
- Save your health, life, and country: abort!
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- Lunch Break: Penguin gets tickled
- Pampers' pro-life t.v. commercial
- Obamas use daughters and Pope to score political points
- Notorious, Obama-loving priest suspended
- (Prolifer)ations 5-3-11
- New pro-life short film: "To Be Born"
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- Lunch Break: The tide is turning
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The photo on the top was taken at Florida State where we recently conducted the Genocide Awareness Project (GAP) which is our big, outdoor abortion photo exhibit. The student with the accordion constantly circled our display and each time any other student attempted to engage us in conversation, he would play as loudly as he could to make dialogue impossible. The photos below it were recently taken in Seattle where our associates displayed CBR abortion photo signs at a Planned Parenthood rally. The Planned Parenthood supporters, volunteers

and staff reflexively held objects in front of our photos so they could not be seen by passersby. We encounter these kinds of obstruction everywhere we go. The pro-aborts want to be able to lie about abortion and to tell those lies with impunity. They know they can't win the abortion argument so they try to stifle debate, shout down criticism and cover up the evidence which proves that they are lying. Without countervailing speech rights, they would succeed.

Northland obviously wants to hide the truth about abortion but the primary reason they are trying to ban our use of the footage depicting their narrator's lies is that those clips reveal the embarrassing lengths to which the abortion industry will go to mislead consumers and voters. Had we merely used a written transcript of their narrator's untruths, it is less likely that they would have threatened us. But our objective wasn't merely to prove they are wrong. It was also to prove they are frauds.

Northland could have made every one of their disingenuous claims in a written essay posted on their homepage. But they understand the persuasive power of sight and sound. So they humanized their pitch to better obscure the inhumanity of the abortions they are trying to sell. They cleverly staged countless visual and aural cues intended to create a false impression of normalcy -- which hides the perverse abnormality of the abortions they describe in nearly sacramental terms.

We want viewers to be able to see the narrator's thoughtful demeanor and hear her measured tones. We want them to see the lovely floral arrangement on her desk and the tasteful artwork on her walls. We want them to realize that every aspect of this carefully contrived Potemkin Village belies the carnage taking place just down the hall. Cutting back and forth between imagery of women being bamboozled and babies being butchered produces a jarring discontinuity which unmask Northland's depravity but also their dishonesty.

To mix my metaphors, the Fair Use doctrine is designed to level the playing field in the marketplace of ideas. It imposes a measure of accountability on powerful speakers whose questionable claims might otherwise go unquestioned. The abortion industry has a de facto legal right to use misleading video to make their arguments. We have a concomitant legal right to use as much of that same video as is minimally necessary to refute those arguments. No attorney general or district attorney is going to protect the public interest by investigating Northland's deceptive advertising practices. That burden falls to us. It is one thing for the government to turn a blind eye toward Northland's excesses. It would be quite another for the government to actively impede our efforts to wave off Northland's potential victims.

Gregg Cunningham
The Center For Bio-Ethical Reform

RECEIVED MAR 21 2011

SIMPSON THACHER & BARTLETT LLP

2550 HANOVER STREET
PALO ALTO, CA 94304
(650) 251-5000

FACSIMILE: (650) 251-5002

DIRECT DIAL NUMBER

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E-MAIL ADDRESS

hfrahn@stblaw.com

VIA CERTIFIED MAIL, RETURN RECEIPT
REQUESTED

March 18, 2011

Re: Northland Family Planning

Gregg Lee Cunningham
Executive Director
Center for Bio-Ethical Reform
26882 Vista Terrace
Lake Forest, California 92630

Don Cooper
Operations Manager
Center for Bio-Ethical Reform
P.O. Box 219
Lake Forest, California 92609

Dear Mr. Cunningham and Mr. Cooper:

We represent Northland Family Planning Clinic, Inc. ("Northland"). The purpose of this letter is to inform you that the Center for Bio-Ethical Reform ("CBR") and Mr. Cooper are in violation of copyright law and are infringing Northland's rights. This letter is also official notification under the provisions of Section 512(c) of the Digital Millennium Copyright Act ("DMCA") to effect removal of the infringements described below. Northland holds the registered copyright to "Every Day, Good Women Choose

Abortion.”¹ If you do not remove the infringing material as described below, Northland will take further action to protect its rights in its copyrighted work.

There are at least four infringing videos containing Northland’s copyrighted material on CBR’s website, all entitled “The Most Shocking (graphic imagery), Four-Minute, Abortion Debate You Will Ever See!” The infringing videos are posted on CBR’s website on at least the following urls: http://www.abortionno.org/index.php/audio_video/; http://abortionno.org/index.php/blog/the_most_shocking_graphic_imagery_four-minute_abortion_debate_you_will_ever/; http://www.abortionno.org/index.php/audio_video/quicktime/the_most_shocking_graphic_imagery_four-minute_abortion_debate_you_will_ever/; http://www.abortionno.org/index.php/audio_video/the_most_shocking_graphic_imagery_four-minute_abortion_debate_you_will_ever/. The person or persons who posted these videos on CBR’s website ignored the clear copyright language on the portions that were copied from Northland’s copyrighted material.

In addition, two similar infringing videos containing Northland’s copyrighted material are posted on the website Pro-Lifetube.com by a user with the handle “abortionNO,” which appears to be Donald Cooper, acting on behalf of CBR.² The infringing videos are posted on Pro-Lifetube.com at <http://pro-lifetube.com/videos/577/the->

¹ The copyrighted material may be viewed on Northland’s website at <http://www.northlandfamilyplanning.com/videos/everyday-good-women/>.

² See user profile of “abortionNO” at <http://pro-lifetube.com/members/abortionNO>.

Gregg Lee Cunningham
Don Cooper

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March 18, 2011

most-shocking-(graphic-imagery),-four-minute,-abortion-debate-yo and [http://pro-lifetube.com/videos/583/the-most-shocking-\(graphic-imagery\),-four-minute,-abortion-debate-yo](http://pro-lifetube.com/videos/583/the-most-shocking-(graphic-imagery),-four-minute,-abortion-debate-yo). Again, Mr. Cooper posted these videos with no regard to the blatant theft of Northland's copyrighted materials.

Northland has not authorized any of the foregoing uses of its copyrighted material. Northland demands that this unauthorized use of copyrighted material cease immediately and that all videos entitled "The Most Shocking (graphic imagery), Four-Minute, Abortion Debate You Will Ever See!"—and any other videos containing Northland's copyrighted material—be removed from all places they are posted on the CBR website and Pro-Lifetube.com at once, as well as anywhere else you or your agents have placed them. The information in this letter is accurate to the best of our knowledge. We have a good faith belief that the use of Northland's copyrighted material is unauthorized, and I swear under penalty of perjury that I am authorized to act on behalf of Northland, the copyright holder.

Unless this demand is complied with, Northland shall take such action as may be necessary to protect its interests without further notice to CBR or any individuals concerned in these acts of infringement and false statements. This includes, but is not limited to, pursuing the full statutory penalty for willful infringement of copyright of \$150,000.00 per infringement. CBR may also be subject to criminal sanctions for its actions. Northland fully reserves all its rights with respect to this matter.

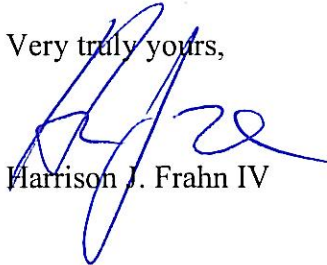
Gregg Lee Cunningham
Don Cooper

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March 18, 2011

Please advise me by no later than March 31, 2011 that CBR has complied
with this demand.

Very truly yours,



Harrison J. Frahn IV

cc: CBR Directors:
Lois Cunningham
Mark Harrington
Bill Calvin
Fletcher Armstrong
Darius Hardwick
Michael Schrimsher
Steve Holck
Kurt and Samantha Linneman
Gregg Cunningham (*alternate address*)



March 23, 2011

VIA FEDERAL EXPRESS

Harrison J. Frahn IV
Simpson Thacher & Bartlett LLP
2550 Hanover Street
Palo Alto, California 94304

Re: Northland Family Planning Abortion Center

Dear Mr. Frahn IV:

We represent the Center for Bio-Ethical Reform, Inc., Mr. Gregg Cunningham, and Mr. Don Cooper. The purpose of this letter is to inform you that your March 18, 2011, letter threatening legal action against our clients for exercising their constitutionally and statutorily protected right to freedom of speech is both wrong and futile.

As you must know, one of the most important limitations to the rights accorded to the owner of a copyright is the doctrine of "fair use," which has developed over the years through a series of court decisions and has been codified in section 107 of the copyright law (Title 17, United States Code). Section 107 sets out four factors to be considered in determining whether a particular use is "fair." Any reasonable consideration of those factors yields the irrefutable conclusion that my clients' use of the subject video was not an infringement of copyright. Commenting upon, or critiquing of, copyrighted material is a well established "fair use." Indeed, comment and critique are at the very core of the fair use doctrine as a safeguard for the right to freedom of speech.

In conclusion, my clients would welcome the opportunity to defend their position in a court of law should you be so reckless as to follow through with your hollow threat to sue them. We would only caution you and your client to take section 505 of Title 17 into consideration in your calculus.

Sincerely,

THOMAS MORE LAW CENTER

Robert J. Muise
Senior Trial Counsel

LAW OFFICES OF DAVID YERUSHALMI, P.C.

David Yerushalmi, Esq.
Arizona, California, District of Columbia, and New York

cc: Gregg Cunningham
Don Cooper