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Gregg L. Cunningham, Executive Director

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Dear Pro-Life Supporter,

As the world appears to be losing its collective mind, we at CBR, by God's grace, remain rock-steady in our determination to turn the Church back to the Bible and the nation back to the Constitution. *World* magazine acknowledged that commitment in their cover story for the January 23, 2016, *Roe v. Wade* issue: "Gregg Cunningham, who directs the Center For Bio-Ethical Reform and has been trying to wake up college students by showing graphic abortion photos on campuses, said the [Center For Medical Progress Planned Parenthood exposé] videos [which used CBR abortion footage] shifted 'the debate from abstract (freedom of choice) to something concrete: A horrifying act [of violence] which kills a baby.'"

We are also using our abortion photo strategy to picket the retail locations of Planned Parenthood's corporate donors. Chief among them are Starbucks stores which are soft targets because the Chairman and CEO of the corporation recently told *The New York Times* that the company's success is based primarily on two factors: the customer experience and the employees' morale. Huge aborted baby photos displayed outside almost any Starbucks' shop dramatically diminish both. In an effort to attract maximum news media attention, we have targeted Starbucks stores located in the Irvine Spectrum shopping center in Irvine, CA, (conveniently close to our offices) and the Fashion Island shopping center in nearby Newport Beach, CA. The two malls are also home to Planned Parenthood donors Nike, Whole Foods Market, Urban Decay (cosmetics) and Levi's.

Pickets to promote consumer boycotts (which CBR sponsors in partnership with Doug Scott and Life Decisions Int.) arguably work best when picketers can actually gain entry to these large, up-scale shopping malls and stand essentially in front of targeted stores. California is the only state in the Union which permits the exercise of expressive rights on private commercial property because Article 1, Section 2, Subdivision (a) of the State Constitution has been interpreted by the California Supreme Court to protect "speech and petition, reasonably exercised, in shopping centers, even when the centers are privately owned" (*Robins v. Pruneyard*, 23 Cal. 3rd, 899 (1979)).

This line of cases was developed to accommodate the enormous political power exercised by organized labor in California (striking employees picketing employers inside malls), but CBR is now attempting to appropriate its protections to facilitate pro-life picketing. Toward that end, we have filed a lawsuit (*Center For Bio-Ethical Reform v. Irvine Co.*, Case No.: 30-2015-00786580-CU-CR-CXC) – through our partners at the American Freedom Law Center – against the very powerful owners of these malls, which are attempting to prevent us from displaying the abortion photos with which we propose to picket inside the shopping centers, in front of the stores operated by merchants which support Planned Parenthood. The mall owners and tenants realize pickets of this sort will dramatically alter the commercial atmosphere from pleasant to grim and they are fighting us tooth and nail.

Our complaint, filed in the Superior Court of the State of California, County of Orange, says:

3. When Plaintiffs sought to engage in their constitutionally protected expressive activity at the Irvine Spectrum Center and Fashion Island, Defendant, through its agent, threatened to enforce its unlawful rules by, *inter alia*, threatening to physically remove Plaintiffs from the shopping centers. Such a threat of physical force in retaliation for exercising constitutionally protected rights constitutes a violation of California Civil Code section 52.1 (civil rights).

As noted in part above, the Complaint goes on to explain:

17. Defendant permits expressive activity at the Irvine Spectrum Center and Fashion Island, which are shopping centers that are open to the public in the same manner as public streets or parks and are therefore public forums for expressive activity.

18. The Irvine Spectrum Center is visited by more than 15 million people annually. Stores located within this mall that donate to Planned Parenthood, the nation's largest abortion provider, include Levi's and Starbucks Coffee.

19. Fashion Island is visited by more than 13 million people annually. Stores located within this mall that donate to Planned Parenthood include Nike, Starbucks Coffee, Urban Decay, and Whole Foods Market.

20. On or about November 25, 2014, Plaintiffs contacted Defendant, including Donald Bren, the Chairman of the Board of The Irvine Company; James Ibbotson, the Director of Operations for the Irvine Spectrum Center; and Tanya Thomas, the Senior General Manager for Fashion Island, via letter informing them that Plaintiffs 'intend to conduct boycott picketing in close proximity to the Levi's retail store inside the mall for the purpose of informing prospective customers that this company permits business entities under its corporate control to donate money to Planned Parenthood, America's largest abortion provider.'

The signs we proposed for display were, first, a prenatal development picture with a caption which reads "Living 7-week human embryo moments before an abortion." The second sign depicts an aborted baby with a caption which says "Dead 8-week human embryo moments after an abortion." We also examined the shopping centers' expressive rights rules and the Complaint goes on to describe our response:

31. Upon review of the rules and Mr. Park's [Defense counsel] correspondence, on or about December 18, 2014, Plaintiff Cunningham sent Mr. Park a lengthy email setting forth Plaintiffs' position on the issues. In that email, Plaintiff Cunningham stated, in relevant part, the following: "We do not trespass or engage in any other criminal misconduct. You will find us to be both responsible and willing to extend to your clients every courtesy—including making them aware of our picketing plans in advance of our arrival on private commercial property or even the public property adjacent thereto. Issues raised by your correspondence are as follows:

1) Notwithstanding your reference to our proposed expressive activity as a 'protest,' it is, in fact, an educational picket.

2) Your offer 'to find a suitable location' for our group 'in visual proximity of the store in question' is not acceptable if that location is not essentially in front of the targeted store. . . . '[T]he location of the employers is often the only effective locus; alternative locations do not call attention to the problem which is the subject of the picketing and may fail to apply the desired economic pressure.' [citing and quoting *Diamond v. Bland*, 3 Cal. 3d 653, 662 (1970) ("*Diamond I*"].

3) Your client's rules are unacceptable to the extent that they permit only 'one-on-one communications as opposed to communications intended for a group of people simultaneously.' The whole purpose of any educational picket is to communicate with the largest groups possible.

4) Your rules appear to ban signs, brochures or conversation which mentions 'either the center or tenants at the center.' But the court in [*Glendale Associates v. NLRB*, 347 F.3d 1145 (9th Cir. 2003)] invalidated rules which banned criticism of a named tenant.

5) Rule 3 appears to permit expressive activity only in generic 'designated areas' which are more restrictive than the store-front locations permitted in [*Diamond I (supra)*]. Again, this restriction is unlawful and therefore unacceptable.

6) Rule 9 seems to ban 'gruesome pictures or displays,' which language appears in [*H-Chh Assocs. v. Citizens for Representative Gov't*, 193 Cal. App. 3d 1193, 1216 (Cal. App. 2d 1987)], but the state supreme court has not ruled on this issue and the majority in [*Fashion Valley Mall, LLC v. NLRB*, 42 Cal. 4th 850 (2007)] held that a mall's rule was not content-neutral because it barred an entire category of speech. The same defect is inherent in a ban on an entire category of speech which graphically depicts injustice which cannot be adequately described by the written or spoken word. Abortion is inexpressibly 'gruesome' and 'grisly,' so banning photos of it betrays disapproval of pickets intended to prove to consumers that businesses which fund organizations that perform abortions should be boycotted. Photo bans render the moral depravity of abortion impossible to prove and thereby doom related boycotts to inevitable failure. That is not content-neutrality.

7) Rules 13, 14 and 20 deal with 'insurance,' 'deposits' and 'indemnification.' We do not rule out the possibility that some accord can be reached on these issues, but we are confident that the courts will never grant to the wealthy expressive rights superior to those available to the poor simply because the former meet certain standards of financial responsibility which the latter cannot.

8) Rule 17 may also be unenforceable to the extent that it prohibits behavior 'likely to cause significant . . . alarm,' etc. Abortion is an act of violence which kills a baby. Proving that abortion is sufficiently alarming to warrant an economic boycott is vital to the success of that boycott campaign. Our behavior will not be 'alarming' despite the fact our photos are 'alarming' because abortion is 'alarming'!

9) Rule 9 bans materials suggesting ' . . . the owner supports the view of the applicants' and reserves to the owner a right to post a sign repudiating the position of the applicant. An owner who publicly and expressly rejects the content of an applicant's position cannot fairly be said to be imposing content-neutral restrictions. Our pictures are our message—by necessity. Such a sign is somewhat redundant if the owner bans depictions of the subject of the boycott. In so doing, the owner will obviously have taken the side of Planned Parenthood and its corporate donors, who desperately wish to trivialize abortion by concealing its horror. What better way to defeat boycotts and the accountability they impose? Partisanship of that intensity justifies pickets of the owner's entire mall, at the entrances to its parking lots, with signs which are far more disturbing than any we propose to display inside the mall. Regarding your solicitation of our agreement to not display the photos enclosed in our proposal letter, and only make them available to 'patrons [who come] to the table,' we reply as follows: We submitted for your approval, inside the mall, a picture of a human embryo before an abortion. There is nothing 'grisly' or 'gruesome' about it. You have no legal basis

on which to ban it. We also submitted for your approval, inside the mall, a picture of a human embryo after an abortion, and since the California Supreme Court has not ruled on imagery proposed for display on private commercial property, we are prepared to litigate the question if negotiations prove fruitless. . . . Finally, we are willing to confine our presence to the store-front of a targeted business, but we are not willing to remain behind a table remotely located relative to that business. We have a right to approach patrons who, experience teaches, don't come to information tables. Those patrons have a right to rebuff that approach. We also have a duty to respect that rebuff. [Additional content omitted due to space constraints].

If you predicted that Defendant shopping centers rejected our signs – even the picture of the living embryo – you were correct. In response, we submitted for approval a sign which depicted only a QR code (which can be scanned with a smart phone app that takes viewers to an abortion video on our website at www.abortionNO.org) with a caption which says “Scan QR code to view horrifying abortion video.” The Defendant also rejected this concept in a letter which read: “Mr. Cunningham, we have carefully considered [your recent] suggestion . . . as to signage. While creative, it is equally problematic. While not obviously as grisly, instead what it does is invite our young patrons (who are all quite tech savvy) to find these videos. In sum, we just cannot agree . . .” If someone is old enough to have an abortion, they are old enough to see an abortion. No shopper who visits malls unaccompanied by parents is too young to have an abortion. Why shouldn't teenagers be shown the horror that their Starbucks purchase will help fund? Don't all consumers have a right to know that their money is being sent to an organization which tortures babies to death and chops out their organs while their hearts are still beating?

Fighting Planned Parenthood is exceedingly difficult. David Daleiden has discovered that fact now that Planned Parenthood has sued him for blowing their cover with undercover chop-shop videos (he will ultimately win) and a corrupt prosecutor has indicted him on totally bogus criminal charges for the same whistle-blowing (he will also win against these politically motivated charges). God willing, we will also win in court against Planned Parenthood's corporate donors. America is now such a political powder keg regarding abortion that NARAL (formerly known as the National Abortion Rights Action League) tweeted outrage at a Super Bowl commercial by Doritos' makers which featured a humorous look at an ultrasound scan of a baby in the womb: “#NotBuyingIt – that @Doritos ad using #antichoice tactic of humanizing fetuses . . .” What is a fetus if not human? It might not be a “person” under the law, but neither is it some non-human species of creature. How these barbarians fear even living baby imagery. *The New York Times* reported January 11, 2016, a story headlined “Law on Ultrasounds Reignites the Abortion Debate in a 2016 Battleground.” The new law requires doctors killing babies older than sixteen weeks to send an ultrasound video of the baby at issue to state medical authorities to ensure that that the baby is not older than the law permits him/her to be butchered. The story quotes the Hillary Clinton campaign complaining that the ultrasound requirement is “shameful” and demonstrates “disregard for the sanctity of a woman's relationship with her doctor,” and the privacy of “her personal medical information.” Lies, lies and more lies. The medical information isn't the mother's; it is her baby's!

Please! Join our Planned Parenthood donor boycott! Volunteer! Help us fund our boycott pickets!

Lord bless,

A handwritten signature in black ink, appearing to read 'Gregg Cunningham', with a long horizontal line extending to the right.

Gregg Cunningham
Executive Director