



Directors
Gregg & Lois Cunningham

Center for Bio-Ethical Reform

June 2012

Judge Proclaims CBR the Winner

"Federal Judge James Selna, on Friday, June 15, declared The Center For Bio-Ethical Reform (CBR) to be the winner in a copyright infringement lawsuit filed against us by the abortionist who owns a chain of Michigan abortion clinics. The case involved a consumer protection video we produced to parody an abortion industry sales video; and the judge granted CBR's Motion for Summary Judgment, ruling, in essence, that the abortionist's case was too weak to even make it to trial.

One of our attorneys, Rob Muise, formerly of the Thomas More Legal Center and now a founding partner with the American Freedom Law Center, recently wrote that "... CBR is not only changing the public perception on abortion, it is changing the legal landscape for pro-lifers all across the country. The important work Gregg and CBR are doing is resulting in constitutional cases that are providing crucial legal precedents that other pro-lifers can use to protect their constitutional rights, including the right to freedom of speech."

Northland had claimed that CBR actionably damaged their businesses and injured their reputations by appropriating footage from one of their infomercials to produce a "mockumentary" video, which exposed the consumer fraud by which Northland clinics deceive and exploit vulnerable young mothers and poorly informed voters.

In his opinion, the judge wrote that "Though Northland [abortion clinics] may have suffered pecuniary or reputational losses as a result of the accused [CBR] Videos, those injuries are not recognized under the Copyright Act. On balance, Defendants' use of the Northland Video was fair." The order itself read, "For the foregoing reasons, Defendants' Motion for Summary Judgment is GRANTED, and Northland's Motion for Summary Judgment is DENIED."

He added that "For example, in the beginning of the accused Videos, a clip from the Northland Video plays in which the narrator says, "Deciding to have an abortion is a normal decision"; then, the screen cuts to a video clip in which it appears that a fetal hand reaches out of the birth canal and gloved fingers -- ostensibly those of a doctor -- expose more of the hand before using forceps to rip off the appendage."

The judge also explained that "The accused Videos continue in that vein, contrasting the serene environment

of the narrator's office, her soft, conservative attire, her calm voice, and her message that women are good regardless of how they exercise their reproductive rights, with the gruesome and seemingly savage 'reality' of an abortion procedure."

Northland alleged that our motive was profiteering but the court ruled that "On balance, the profit Defendants gained from the use of Northland's copyrighted material is a minor part of the analysis in light of the transformative use of the material."

The judge also rejected Northland's complaint that we had ruined the marketability of their infomercial by noting that "Northland asserts that the accused Videos have diminished the value of the Northland Video and have terminated all conversations with potential licensees" but he concluded that "While this is no phantom injury, it is not recognized by the Copyright Act."

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CBR-Maryland Director Kurt Linnemann brought a team to the May 13 Susan G. Komen Race for the Cure in Philadelphia. Our team did not race, but they held a large sign calling for Komen to stop funding Planned Parenthood. Volunteers also displayed images of aborted children and signs educating about medical studies that link abortion to an increased risk of breast cancer. Kurt is confident that most of the 40,000 race participants saw our display. CBR-Maryland is educating at other Komen races, including the June 2 Komen Race in Washington D.C., where our team stood at the Washington Monument.



CBR WINNER (Continued from Page 1)

As a result of this very foolish lawsuit, we have been able to force Northland to release email messages which shed additional light on their campaign of deception and their ongoing attempt to stifle public criticism.

The Huffington Post reported on our legal victory, but writer Michael Rose got nearly everything wrong in his piece. He asserts that in our *Northland* decision, Judge Selna overturned “thousands of years of common understanding of what constitutes a parody, not to mention several Supreme Court decisions.” In reality, we know that the U.S. Supreme Court remarked in *Campbell v. Acuff-Rose Music, Inc.* that “Modern dictionaries ... describe a parody as a ‘literary or artistic work that imitates the characteristic style of an author or a work for comic effect *or ridicule* [emphasis added], or as a composition in prose or verse in which the characteristic turns of thought and phrase in an author or class of authors are imitated in such a way as to make them appear ridiculous.” Mr. Rose only discusses the comedy component of certain parodies, apparently unaware that parody can also be defined exclusively in terms of ridicule. No objective viewer could fail to notice that our video makes the Northland infomercial claims seem ridiculous.

Mr. Rose lionized our opponents with a laudatory reference to “Chelian’s attorney, Harrison Frahn, of the highly respected copyright defense firm, Simpson, Thacher and Bartlett.” But in so doing, he unwittingly reinforces our “David vs. Goliath” narrative because according to LAW.com, our opponent’s law firm “... ranked 21st on *The American Lawyer’s* 2011 Am Law 100 rankings of U.S. law firms by revenue, with gross revenue of \$923,500,000 in 2010.” **By prevailing in court, we look all the more like Gideon’s Army in light of the fact that this firm of 810 attorneys was in the 2011 Global 100 survey “ranked as the 25th highest grossing law firm in the world.”**

Mr. Rose helped us send a chilling message to the global abortion industry: “This is the first salvo in a series of videos that CBR has planned according to a CBR memo sent to me by Gregg Cunningham, CBR’s executive director. ‘We are preparing similar Fair Use critiques of every abortion clinic video.... We are finding these videos in the U.S., and our international CBR affiliates are working on them abroad. Northland is only a pilot project.’” Outrageous but deceptive lies about abortion being “normal” and “good” and even “sacred” are no longer going to go unchallenged. **This victory virtually halts the production of fraudulent infomercials by abortion clinics who now fear that we will wipe out each and every one of their expensive marketing investments with one of our inexpensive parody videos.** That is consumer protection at its finest. The deterrent value is incalculable.

The Huffington Post has immense credibility on the political Left. It was the first web news service to win a Pulitzer Prize. Techcrunch.com says of *The Huffington Post* web traffic: “Unique U.S. visitors surged to 28 million in January...” This is why AOL just paid more than \$300 million to acquire it. We are now on the Left’s radar to a far greater degree than we were two days ago, and that development is vital to the growth of our influence.

There were apparently four journalists in the courtroom when Judge Selna heard arguments on our Cross-Motions for Summary Judgment. Only Mr. Rose later talked to us. The others chased Northland down the hall like a pack of puppies. Those three scribes wrote nothing because Northland lost and they presumably didn’t want to complete Ms. Chelian’s humiliation. But Mr. Rose asked me to send him more information about the case. He replied to my email messages and took our dispute seriously. For all his bias, he did us a service of inestimable value.

Northland will almost certainly file an appeal to the Ninth Circuit Court and that will give us more opportunities to discredit the evil abortion industry.

Robert Muise commented, “This is an important ruling. It sends a clear message to other abortionists and their complicit lawyers that this tactic of trying to silence the pro-life message through vexatious litigation will not work. **CBR’s video effectively exposes the lies and deception of the Northland video, and it will continue to do so thanks to this ruling.**”

AFLC Senior Counsel David Yerushalmi concluded, “This case is yet another example of abortionists trying to hide the stark reality that they are engaged in the business of killing human life for profit. **CBR’s video effectively and metaphorically forces open the door to the abortion clinic** and allows the viewer to decide whether they are going to believe what they hear or what they see -- with their own eyes.”

God bless you for standing with CBR.

“For the LORD your God is God of gods and Lord of lords, the great God, mighty and awesome, who shows no partiality nor takes a bribe.

He administers justice for the fatherless...”

DEUTERONOMY 10:17-18A

- Praise God for our court victory over Northland Clinics.
- Volunteers to conduct our Corporate Accountability Project (CAP) and Key State Project

Events

Corporate Accountability Project (CAP)

June 8-9, 16-17, Marriott Hotel,
23-24, 29-30 Dana Point, CA

May 18 Komen Race for the Cure
Pimlico, Baltimore, Maryland

June 2 Komen Race
Washington, D.C.

Presentations

June 24 Mt. Sterling Church of the Nazarene
Mt. Sterling, OH

“Choice” Sign Outreaches

May 16 North High School, Phoenix, AZ



GAP's Visit to University of Missouri



Courtney Scott, Missouri Students For Life treasurer, offers our brochures to students at the GAP display. In a post-GAP email, she wrote: "I enjoyed conversations ranging from the humanity and rights of the unborn to the definition of genocide; perhaps most importantly, we were able to activate fellow pro-lifers and offer ways to get involved saving lives in our own community."



Missouri Students For Life members speak with their peers during GAP on the Lowry Mall, the busiest pedestrian crossroads on the University of Missouri Columbia campus.

On April 23-24, CBR-Missouri/Kansas brought our Genocide Awareness Project (GAP) to the University of Missouri in Columbia. Director Bill Calvin partnered with other pro-life groups who recognize the power of GAP's visual comparison of abortion to genocide. Missouri Students For Life (MSFL) sponsored us on their campus and the club members helped staff the display. Kathy Forck of 40 Days for Life Columbia promoted our Pro-Life Institute (a pre-GAP training); she also found host homes for our travelling team and provided meals. Missouri Right to Life also promoted our Pro-Life Institute.

Alanna Gomez, Campus Outreach Director for our Canadian CBR affiliate, did an outstanding job helping train our volunteers at the Pro-Life Institute. The training prepared MSFL students and others from the community to effectively share the pro-life position. Here is some feedback:

"These images work... **We got people not only on our campus but also in the whole city discussing abortion.** There are still comments being posted on KOMU-TV's story [CBS station, April 24]... I was about to go into the degree of dependency argument with a male student when a female student joined our conversation to say, 'I was born at 20 weeks.' It was incredible, and purely the push of God that sent her over to tell her story." – Reagan Nielsen, President, MSFL

"I was deeply encouraged by all those who passed by and posed deep questions... **I am very confident that this country is headed in the right direction on the abortion issue.** I am certain it will [end] before I die. Thanks greatly to the efforts of GAP, Students for Life, and other Pro-Life organizations." – Christopher Soelle, Vice President, MSFL

"These images work... We got people not only on our campus but also in the whole city discussing abortion."

Reagan Nielsen,
President of Missouri Students For Life

“ CBR’s video effectively and metaphorically
forces open the door to the abortion clinic...”

AFLC Senior Counsel David Yerushalmi



CBR-Maryland displayed abortion signs in front of the Russian Embassy in Washington, D.C., on June 1. This display was requested by our CBR-Russia affiliate to coincide with an open letter they wrote to Vladimir Putin. Warriors of Life requested of Putin an Institutional Court investigation into the constitutionality of abortion-permitting clauses, as Warriors of Life’s legal analysis determined they are unconstitutional.

Address corrections

addresschanges@cbrinfo.org

Electronic funds donations

ACH@cbrinfo.org

Credit card donations

creditcards@cbrinfo.org

Product order inquiries

productorders@cbrinfo.org

Estate donations

plannedgiving@cbrinfo.org