



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