

Lifeline

*A Legal Network
in Support of Life*

A P U B L I C A T I O N O F T H E L I F E L E G A L D E F E N S E F O U N D A T I O N

I N T H I S I S S U E

Van R. Irion

“Choose Life” License Plates: Part II

Lifeline readers may remember an article from the Spring 2001 issue describing the battle to have “Choose Life” license plates issued in California. Funds raised through the sale of these plates were to benefit organizations that encourage expectant mothers to choose adoption rather than abortion. You’ve probably noticed that these plates are still not available. The good news is that the battle is still being fought. The better news is that recent developments may have turned the tide of that battle in our favor.

A variety of specialty license plates have been made available in California over the past few years. Readers may have noticed Firefighter, Pearl Harbor Survivor, or Purple Heart recipient license plates. Motorists must pay \$50 to purchase the plates and an additional \$40 per year at re-registration.

Most specialty plates have been authorized by the State legislature as a way of raising money for specific government programs. Private, non-profit organizations can also apply to have specialty plates offered on their behalf. A portion of the benefits from these sales goes to the non-profit. However the approval process is difficult. First, a bill must be passed by the legislature authorizing the new specialty plate. Then the non-profit has one year to register at least 7,500 motorists willing to purchase the new plate.

Only one private organization, the Yosemite Fund, has fulfilled both of these requirements and obtained their own specialty plate. However, many non-profits have gotten past the first step. Girl Scouts of America, the

*Despite having over
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from motorists willing to
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to pass the required
legislation has failed.*

Ronald Reagan Presidential Library, and CAL-START, an environmental organization, have all had legislation passed authorizing specialty plates. None of these organizations were able to register enough motorists within the given year to fulfill the second requirement.

The Women’s Resource Network, sponsors of the “Choose Life” specialty plates, have had

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GENERAL RECAP & UPDATE

Schiavo v. Schindler (Florida)—Michael Schiavo seeks court permission to kill 37-year-old wife, Terri, by withdrawing food. Terri’s parents oppose the motion; several doctors have expressed the opinion that her condition could improve with appropriate treatment, which Michael has refused to allow. Governor Bush has asked for appointment of an independent guardian. After unsuccessful appeal to higher court, case has been remanded to trial court that has consistently ruled for husband. Trial court delayed authorizing discontinuation of food and fluids until attempt could be made to feed Terri by mouth but the judge denied the motion. Accusations of collusion between the trial court judge and Michael Schiavo’s attorney have surfaced. As *Lifeline* went to press, the judge has again ordered her feeding tube removed. Terri’s parents have filed an amended lawsuit in federal court to prevent the order from being enforced. For update, see www.terrisfight.org.

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National Abortion Federation v. Operation Rescue (Los Angeles)—Resurrection of 14-year-old case by ACLU and abortion providers to shut down Operation Rescue. Although there have been no clinic blockades in California for ten years, the ACLU intends to seek hundreds of thousands of dollars in attorney fees against those who led and participated in rescue activity in the late 1980s.

Reeves v. Rocklin United School District—Pro-lifers leafleting and holding signs were detained after high school administrators involved the local police; during a second visit to the same school, pro-lifers were forced to move off the campus after being refused visitor registration. They were also told that the public street adjacent to the school was off-limits. Despite clear California case and statutory authority allowing free speech on and near public school campuses, the trial court ruled that the administrators could permissibly exclude the pro-lifers in order to prevent “disruption” of school activities. Court of Appeals affirmed.

Planned Parenthood v. ACLA et al. (Portland, Ore.)—On rehearing in the Ninth Circuit, an 11-member en banc panel voted 6-5 to reverse the prior panel’s unanimous decision and reinstate a \$107 million verdict against pro-lifers who exposed the identities of abortionists. LLDF filed an amicus brief in support of rehearing before the full Ninth Circuit (denied) and an amicus brief in support of the defendants’ petition for certiorari in the U.S. Supreme Court. Supreme Court denied certiorari, and case is remanded to trial court for reconsideration of excessive amount of punitive damage awards.

Foti v. Planned Parenthood/Planned Parenthood v. Foti (San Mateo)—This action and cross-action between sidewalk counselors and PP and its escorts is now stayed, pending the outcome of a new lawsuit filed by PP in which it seeks a declaration from the court that a speech-free zone injunction it obtained eight years ago against Operation Rescue of California actually applies against these sidewalk counselors and anyone else PP serves it on. Court of appeal reversed the summary judgment in PP’s favor and ruled that injunctions may not bind “all persons with notice.” Case remanded for

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Dana Cody



From the Director

Occasionally as LLDF’s executive director I am called upon to handle a legal case. Since the case of *Feminist Women’s Health Center v. Blythe* is in my own back yard, so to speak, this was one I took. Have you ever heard the expression “beating a dead horse?” That describes this case.

It is yet another instance of an injunction entered against any pro-lifer being used against all pro-lifers. One California Court of Appeal just upheld *People v. Conrad* (1997) 55 Cal.App.4th 896, in LLDF Legal Director Katie Short’s case, *Planned Parenthood Golden Gate v. Foti* (2003) 107 Cal.App.4th 345,¹ both cases clearly rejecting such a contention. Even so, Sacramento County Superior Court Judge James Long has modified a twelve-year-old injunction to include a buffer zone preventing pro-lifer sidewalk counselors from entering a 35-foot area on each side of, and including the driveway to the Feminist Women’s Health Center clinic (FWHC). The driveway is the only entrance to the clinic and the zone extends across the street to the curb on the other side.

Did Judge Long have access to the above decisions, you ask? They were cited in LLDF’s opposition to the FWHC motion to modify the existing injunction to add a buffer zone.

If Judge Long had condescended to read the case law he would have found that “acting in concert” was the proper legal standard and granted LLDF’s motion in limine to exclude any evidence proffered by FWHC until they made a showing that the defendants were violating the existing injunction, or that other individuals were violating the injunction because they were acting in concert with the defendants. Instead, the motion in limine was denied and the hearing took on a circus-like atmosphere, with the ring-leader local media championing the rights of the child-killers.

What did the defendants, or for that matter, any pro-lifer do to justify such an action by the court? This puzzling decision is best “understood” by looking at its factual history.

Three of the five defendants have not been to the clinic since 1991, when the original injunction was granted at what was then FWHC on J Street in Sacramento. Shortly after the injunc-

tion took effect, FWHC moved to Folsom Boulevard in Sacramento, where two of the five defendants continued to sidewalk counsel; one frequently, the other occasionally. On occasion, a FWHC employee would approach the sidewalk counselors, waving the injunction at them. The sidewalk counselors would direct that individual to the J Street address in the text of the injunction and continue with their peaceful, lawful sidewalk counseling. Even when the city police were summoned they would not enforce an injunction meant for J Street at the Folsom Boulevard address.²

Then in August of 2002, FWHC, now doing business as Women’s Health Specialists (WHS), moved to Wright Street in Sacramento. In November Judge Long granted WHS’s motion to modify the injunction to apply to the new address.³ In his order after the November hearing, the judge stated he considered no evidence submitted by either party pursuant to the motion but instead based his order on the evidence by which he granted the original injunction—over 11 years earlier, which according to the defendants was trumped up. LLDF attorneys are not privy to that evidence because the court cannot find the file, but, oh well.

The order after hearing also stated that a buffer zone was not warranted, but that the defendants could not videotape or write down license numbers, as prohibited in the original injunction. This was a small victory in that the original injunction did include a buffer zone.

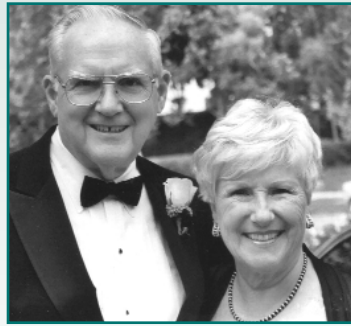
Disheartened with the process, the remaining two defendants/sidewalk counselors have not been back to the WHS clinic on Wright Street. Instead they direct their efforts to help women and save children in cities that tolerate free speech. The sidewalk counselors who now remain at Wright Street were not around when this all started at J Street in 1991. One would think that

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ASK THE ATTORNEY

Bob Taylor

Newport Beach attorney Bob Taylor joined the Board of Directors of Life Legal Defense Foundation earlier this year. Fellow board member Tony Wynne spoke with Mr. Taylor recently about his legal experience and the contribution he looks forward to making to LLDF.



LLDF Board of Director Bob Taylor and wife Toni

Bob, please tell me about your educational and employment background... Sorry, that sounds like a deposition question...

If it is, it calls for a narrative answer.

Yes, it does.

I was born May 25, 1934. I went to Catholic grammar school and high school. I went to Penn State University and graduated in 1956 with a bachelors degree in electrical engineering. I then went to Georgetown Law Center and graduated in 1960 with an LLB. I worked in the patent office when I was going to law school, and in a couple of small law firms. Then in 1961 I moved to California and worked for Beckman Instruments in Fullerton for a year and a half and then went to Lyon & Lyon in Los Angeles. I worked there for the next 40 years doing intellectual property work, but mostly patent litigation.

As of September 1, 2002, I basically retired and set up my own very meager practice doing practically nothing, but doing it out of my home.

So you are only “sort of” retired?

That’s right. I’m mostly retired, but trying to do just a little work, and some pro bono work.

That leads nicely into my next question, which is, how did you come to get involved with Life Legal Defense Foundation?

I don’t recall when I first ran into Life Legal Defense Foundation. I’m sure it was through some fund-raising letter some years ago. I have sent in donations over the years, and I remember going to a party that LLDF had thrown for it at Dan Cathcart’s home. Later I received a brochure with a plea for funds to finance the hiring of a litigation director. I think they wanted to pay the director \$40,000 a year. I was getting close to the end of my career as a patent lawyer, and cutting down a little more every year. I contacted [LLDF Executive Director] Dana Cody and said, “Maybe I could do this, and you could save the \$40,000.”

This is what had led up to that: I had a feeling all along that I should be doing more pro bono work in general, and I had always been strongly pro-life. I talked to my pastor once and told him I thought I should be doing something, but nothing had come along which seemed to fill the bill. Actually, at the time I was president and chairman of the board of a charity down here. A fellow had started this organization called “Serving People in Need” which basically served street people. We started out with meals—sandwiches and such—and grew into other programs: a substance abuse program and an apartment assistance program. I was involved with that for about 10 years. I just resigned as president the year before last.

Anyway, my pastor said, “Something will come along”, and LLDF came along with the litigation director plea. One thing led to another. I went to a few of the board of director meetings and ultimately I was asked to be on the board. I have been trying to help out ever since with whatever comes along.

How do you see yourself using your experience as a patent attorney to benefit LLDF?

Well, litigation is litigation. Years ago I used to do some state court litigation, but I haven’t done any in quite a while. I did a lot of federal litigation and a lot of LLDF cases are federal cases. I am not as conversant with the relevant law as I would like to be, but I’m picking it up bit by bit. Again, litigation is litigation. So far, I have been able to help some of the other attorneys with advice, strategizing, legal research and brief writing.

What are your early impressions of LLDF, as a board member?

LLDF has done a lot of good work. The difficulty that the LLDF lawyers face is that it’s pretty clear that there is one law for abortion and one law for everything else. It makes it extremely difficult for the pro-life lawyers. You take one set of facts in the context of a civil rights dispute and the same

basic set of facts in an abortion dispute and you get two entirely different answers. Justice Scalia said that in the *Madsen* case [*Madsen v. Women’s Health Center*, 512 U.S. 753], quoting something Justice O’Connor had said in an earlier case, that we have a whole different law for abortion. That clearly seems to be the case. It would be nice if we could figure out a way to change that.

Moving from your patent litigation practice into the area of pro-life law, did this double standard come as a surprise to you?

It came as something of a surprise, but not a complete surprise, because I have been reading some of the cases all along. I could see that this seemed to be a rather different field of law as far as outcome was concerned.

But what did surprise me, after I got into it a little bit and read—not so much the abortion-related cases as the other First Amendment cases—was what the courts have held was OK in labor disputes but not OK in the right-to-life context, particularly in the abortion context. I’m not sure how things are going to come out in the end-of-life area. The “end-the-lifers” haven’t come up with a slogan that is as catchy and clever as “pro-choice”.

“Death with dignity?”

Maybe that captures some people’s sympathy, but I don’t think so. It’s hard for the normal person to think of having food and water cut off and starving to death as “death with dignity.” Some of the assisted suicide cases may come closer, but I don’t know what you can do about that. If someone wants to do away with himself he is going to do it.

I get a little encouragement from reading the poll results. I don’t think polls are always accurate, but they do seem to show a rising discontent with abortion on demand. I don’t know if that will affect the judges very much. I think they are poll-driven to an extent, but not really on a case-to-case basis. But the courts do read election returns, as well as polls, so there seems to be some small reason for optimism.

Would you care to comment on what other interests or hobbies you are enjoying during your so-called “retirement?”

I decided that my frustration level was far too low for far too long. I took up golf. My frustration level is now very high and very healthy.

Thanks for taking the time to speak with me, and welcome to the board. L

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determination of whether these sidewalk counselors are all now “acting in concert” with ORC because one of them attended some rallies and gave some money to ORC over a decade ago.

Rader v. Citrus College (Glendora)—Pro-life activists arrested for carrying signs on campus of public college. Charges not filed. Claim filed against city and college district.

Women’s Resource Network v. California (Sacramento)—Constitutional challenge to state system for authorizing specialty license plates. Legislature has refused to authorize “Choose Life” specialty plates promoting adoption, while authorizing plates promoting and benefiting other causes. Preliminary Injunction issued (see page 1.)

McCullough v. Long Beach—Pro-life activist arrested for handing out literature on public sidewalk in front of a public high school. Police also conducted a warrantless seizure of a videotape of the incident, threatening the videographer with arrest if he didn’t hand over the tape. No charges were filed on the arrest. Complaint against City and school district filed.

Meyers v. Mathews (Athens, Ohio). Pro-lifers arrested for pro-life speech on college green. First Amendment claims were dismissed and injunctive relief denied. Court found that popular student gathering place was not a public forum. Case on appeal. Oral argument October 28 in the Sixth circuit.

Estavilla v. Romo and West (Yolo County)—Fetal homicide suit for injury and constitutional violations includes two issues: 1) wrongful death statute is unconstitutional because it denies equal protection to babies killed in utero; and 2) interference with the right to privacy and reproductive rights includes interference with the right to carry a pregnancy to term, not just to have an abortion.

Soria v. Los Angeles Community College District—Pro-life activists arrested on public college campus for displaying signs without permit. Pro-lifers were informed that to obtain a permit, they would need to provide proof of liability insurance. No criminal

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NEW ENGLAND JOURNAL OF POLITICS

Wesley J. Smith

Medical journal crosses a line



The political games played by promoters of human cloning among scientists and biotechnology boosters have really gotten out of hand. The most recent example of their misleading polemics and obfuscation can be found in an editorial in the July 17, 2003, *New England Journal of Medicine*, in which the editor-in-chief promises that the *Journal* will work to help defeat legislative efforts to outlaw human cloning for biomedical research (“Legislative Myopia on Stem Cells” [<http://content.nejm.org/cgi/content/full/349/3/300>] by Jeffrey M. Drazen M.D.)

The editorial claims that it is “unreasonable to prohibit research” using the cloning process known as somatic-cell nuclear transfer (SCNT). (In human SCNT, the nucleus would be removed from a human egg. In its place, a nucleus taken from the cell of the human donor to be cloned would be inserted. The genetically modified egg would then be stimulated electronically. If the technique was successful, human embryonic development would proceed as if the original egg had been fertilized naturally.)

To prevent a pending legal prohibition on human SCNT, Drazen vows that the *Journal* will “make sure that legislative myopia does not blur scientific insight.” Toward this end, he promises that the “editors will do our part” to influence the political debate “by seeking out highly meritorious manuscripts” that extol the virtues and potential of embryonic stem-cell research and human SCNT. In other words, decisions to accept or reject articles for publication about these subjects will at least partly depend on the impact they are expected to have on the public debate. Indeed, the *Boston Globe* reported that the *Journal’s* “goal” in publishing these future articles will be that of “detering political opposition to research.”

With this editorial pronouncement, the *New England Journal of Medicine* effectively ceased to be an objective scientific/medical journal—at least on the issue of human cloning and embryonic stem-cell research. In becoming so

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blatantly political, it has undercut its crucial role as a dispassionate and credible arbiter of reliable medical information.

This unfortunate development raises several crucial questions. If the editors of the *Journal* are intent on using its pages as a political jackhammer in the ongoing societal debate over human cloning, then how can we trust it to tell us the truth, the whole truth, and nothing but the truth about SCNT, embryonic stem-cell research, adult stem-cell research, and related topics? For example, what if the *Journal’s* editors were to receive a credible paper describing a major adult stem-cell research advance—an advance that opponents of human cloning may see as a viable alternative to using tissues from cloned or natural

embryos? No matter how accurate or well-written the report, would the editors still publish it, knowing that doing so might harm their stated political goal of legalizing human cloning for biomedical research? After all, early human trials have already begun using adult stem cells to treat conditions such as multiple sclerosis, spinal-cord injury, Parkinson's, and heart disease—and the more quickly these advances move toward effective treatments for patients in need, the less urgent the embryonic stem-cell and cloning agendas will appear to Americans and their political representatives.

Or, what if the *Journal* received a manuscript reporting that an attempt to use embryonic stem-cell therapy in mice to treat, say, diabetes, had failed? Disclosing failures is as essential a part of the scientific process as touting successes.

Or, what if a submission for publication indicated that embryonic stem cells' known propensity to cause tumors when injected into animals may be insoluble? What then? Publishing the article would unquestionably interfere with the editors' wish to make research on embryonic stem cells legal and legitimate.

And how can we be assured, given the editors' ideological zeal, that pro-cloning articles won't be published as much for their potential political impact as for their bona fide scientific worth? The sad fact is that we can't. Drazen's blithe assurance that the *Journal* will only publish "meritorious manuscripts" favoring cloning and embryonic stem-cell research is no assurance at all. Why? *Because, were the Journal's policy simply to act in this area as it does in other fields—that is, publishing the articles that have the greatest scientific/medical merit—then there would have been no need for Drazen's editorial at all.*

Magnifying these credibility concerns is the editorial's grossly inaccurate description of the science of human cloning. Drazen writes:

There are two distinct uses of embryonic stem cells. The first, for which there is no support among members of the scientific and medical communities, is the use of stem cells to create a genetically identical

person. There is a de facto worldwide ban on such activities, and this ban is appropriate. The second use is to develop genetically compatible materials for the replacement of diseased tissues in patients with devastating medical conditions, such as diabetes or Parkinson's disease. This is important work that must and will move forward.

It is hard to believe that the editor-in-chief of one of the world's most prestigious medical journals would write that an "embryonic stem cell" could be used to create a "genetically identical person," a reference to the birth of a cloned baby. Stem cells are merely cells. Implanting them could no more lead to a pregnancy than placing a blood cell or skin cell into a woman's womb. Researchers could implant embryonic stem cells into women's wombs from now until doomsday and it would never result in the birth of a "genetically identical person."

Moreover, SCNT, the kind of human cloning promoted in Drazen's editorial, does not produce stem cells per se: If successful, it produces *cloned human embryos*. If these cloned embryos could be kept developing for a week—which has not yet been accomplished—they could be dissected to procure embryonic stem cells. But these same cloned embryos could also be used to create a "genetically identical person" if implanted into a woman's womb and gestated until birth. While a stem cell is just a cell, an embryo is a distinct, individual human life, albeit in a nascent stage of development. In the name of scientific accuracy and integrity in advocacy, Drazen should have made these important biological distinctions clear.

Which brings us to the essential moral point in this debate the importance of which many scientists just don't seem to understand: Permitting research into human SCNT would allow researchers *to create human life solely and explicitly for the purpose of destruction and exploitation*, as if these human embryos were no more meaningful than a corn crop or penicillin mold. The majority of scientists may have no

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charges filed. Claim against college district filed and rejected. Complaint ready to be filed.

Mason et al. v. University of Denver—Picketers and leafleters arrested at University of Denver. Discovery is under way.

Spingola v. Village of Granville Ohio—Spingola was arrested in 1998 for displaying graphic abortion poster at annual 4th of July street celebration. City subsequently passed vague ordinance to limit public speaking at future events, and applied it in 1999 to interfere with Spingola's private speech on public sidewalk. Spingola sued for damages and to challenge ordinance. Trial court denied injunction and Sixth Circuit affirmed, holding the ordinance to be facially constitutional but remanding case for trial on 1998 arrest and "as-applied" challenge to ordinance. **Victory:** Jury found two First Amendment violations, awarding Spingola \$3,000 for 1998 poster arrest and \$1 for unconstitutional application of ordinance in 1999. Police officers were awarded immunity (post trial) as to the \$1 "as applied" challenge, but immunity for the 1998 poster arrest was denied. Final judgment for Spingola: \$3,000.

People v. Owen (Washington)—Pro-life activist arrested for trespass while picketing a Seventh Day Adventist Church. **Victory:** case dismissed. Civil suit for false arrest and first amendment violations initiated.

Vo v. Los Angeles—Pro-life activist arrested for failing to leave campus after not complying with speech restrictions requiring that she stay in area with little student foot traffic. No charges filed. Claim filed against county and college district.

Corrigan v. UC (Davis)—pro-life counter-demonstrator falsely arrested for disturbing the peace at *Roe v. Wade* celebration at UC Davis. Complaint filed against UC.

Pedigo v. Hershey (California)—Amniocentesis detrimentally used on pre-born child with improper consent. Civil suit filed.

People v. Dudash (Long Beach)—Pro-life picketer attacked by pro-aborts. When pro-lifers called police, pro-aborts filed cross criminal charges. Charges pending.

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People v. Moorissey (New York)— Pro-lifer enters clinic to warn client has eaten recently and risks aspiration complications. Criminal charges pending.

Feminist Women’s Health Center v. Blythe et al. (Sacramento)— Court grants “modification” of 12-year-old injunction for new location, including 75 x 50 foot speech-free zone around clinic entrance, because “that is the only way of ensuring that the protestors do not continually walk across the driveway to slow cars down or impede their access...” Court also prohibits defendants from videotaping activity at clinic to show that clinic witnesses are lying. Notice of appeal filed.

O’Toole v. Foothill/De Anza Community College District (Cupertino)— Pro-lifers arrested and signs confiscated on public college campuses after they displayed signs disapproved of by the administration. Charges not filed. Claims filed against college district.

DUPLICATES

Please help us conserve! If you are receiving duplicate newsletters, let us know.

LIFELINE MISSION STATEMENT

The mission of Life Legal Defense Foundation is to give innocent and helpless human beings of any age, and particularly unborn children, a trained and committed defense against the threat of death, and to support their advocates in the courtrooms of our nation.

LIFELINE EDITORIAL POLICY

The purpose of LLDF is set forth in our mission statement above. To that end, Lifeline welcomes all ideas, opinions, research and comments, and all religious and political points of view, so long as not seen to be clearly divisive, and so long as fundamentally based upon the twin pillars of truth and charity.

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qualms about this, but the majority of the public apparently does. Opinion polls demonstrate that the American people—and indeed much of the world—is repulsed by all human cloning, whether for biomedical research or to produce children.

This opposition was reflected in the strongly bipartisan vote in the House of Representatives to outlaw human SCNT. If the companion bill in the Senate—authored by Republican Sam Brownback of Kansas and Democrat Mary Landrieu of Louisiana—is passed, President Bush will sign it and the U.S. will join nations such as Australia, Norway, Taiwan, Germany, and (soon) Canada in outlawing all SCNT human cloning.

Unfortunately, it would seem that the editors at the *New England Journal of Medicine* believe that the views of the scientifically unwashed have no place in this debate. Indeed, they and others in the biotechnology and medical communities seem to think that these issues are none of our business. How else to explain the overt politicization of science in recent years, a process that now threatens to undermine the scientific method and poison dispassionate professional discourse on the issue?

In recent years, science has become increasingly politicized, a trend that threatens to undermine the scientific method and poison dispassionate discourse. The *New England Journal of Medicine* has now added fuel to this already raging fire by transforming a highly respected medical journal into a tool for political advocacy. In doing so, they have undermined their own reputation for probity, credibility, and scientific objectivity—the very qualities the editors have tried to appeal to as they strive to defeat what they claim is an ignorant drive to outlaw SCNT human cloning. **L**

[Wesley J. Smith is a senior fellow at the Discovery Institute (www.discovery.org). He is the author of *Forced Exit: The Slippery Slope from Assisted Suicide to Legalized Murder*. His next book will explore the science, morality, and business aspects of human cloning.]

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the injunction would now be without effect—there are no defendants left against whom to enforce it.

Still, in July, WHS made another motion, this time to add the buffer zone to the existing injunction. In the same time-tested manner used in 1991, the plaintiff trumped up evidence against pro-lifers using photographs that neither depicted unlawful conduct nor any of the defendants bound by the injunction. Using these photos, WHS put on their evidence, deflecting any questions that required specific factual answers about the defendants’ alleged unlawful conduct, using the Hillary Clinton strategy, “I don’t recall.” “They’ll get to it” was the response to any objection that WHS evidence was vague or without foundation.

Not surprisingly, about two weeks later, the order after hearing modified the injunction to include a buffer zone.

The good news is that the Sacramento County Sheriff’s Department has handled this situation according to the law. Until July they would not enforce the injunction because none of the defendants were present at the Wright Street location and there was absolutely no evidence of other pro-lifers “acting in concert” with any of the defendants. Time will tell if the Sheriff’s Department will continue the same pattern of enforcement with respect to the buffer zone.

Thanks to previous legal counsel of LLDF attorneys, there are decisions in the San Diego area (Southern California) and the Bay area (Northern California), from their respective courts of appeal, mandating that before all pro-lifers are bound by an injunction binding any pro-lifer, a showing must be made that pro-lifers with notice are acting in concert with defendants bound by the injunction. LLDF plans to seek such a decision from Sacramento’s Third District Court of Appeal in Central California so that the State will maintain equilibrium in its courts when it comes to the free speech and other civil rights of pro-lifers. **L**

¹ See *Lifeline*, Volume XII, No. 1, Spring 2003.
² Injunction aside, LLDF knows of only one time in 10 years at the Folsom Boulevard address where there was any citation for allegedly unlawful conduct by pro-lifers. The person cited was not a defendant in this case.
³ It remains a mystery as to why, after 11 years, WHS would take such an action. LLDF’s argument that FWHC waived any right to bring such a motion after the passage of 11 years was without merit in the eyes of Judge Long.

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the opposite problem. Despite having over 10,000 signed postcards from motorists willing to purchase the Choose Life license plates, all attempts to pass the required legislation has failed. In 2001 State Senator Ray Haynes (R-Riverside) sponsored SB251, the first attempt to authorize Women's Resource Network's "Choose Life" license plates. This bill was the subject of the earlier *Lifeline* article. As expected the bill was resoundingly defeated by pro-abortion forces within the California legislature. Two more attempts have been made to pass legislation authorizing the "Choose Life" plates, both beginning in the State assembly. However both of these bills died in committee.

Following these defeats, the Women's Resource Network filed suit in Federal court claiming that the California legislature's unbridled authority to deny a request for specialty plates represents a violation of free speech. They claim that the legislature denied their request based upon disagreement with the organization's viewpoint. By requiring legislation to authorize specialty plates, politicians may grant one organization the right to express its point of view on thousands of vehicles, while denying another organization the same right. Since the legislature is not required to explain its motivations, there is no way to ensure that its denial is not based solely upon disagreement with the organization's message. In fact, in defending the State, the Attorney General's office admitted that the legislature only authorizes specialty plates for organizations that have a purpose they think is worthy of sponsoring.

On September 5, LLDF affiliate attorney Mike Millen obtained a preliminary injunction on behalf of Women's Resource Network pending the outcome of this lawsuit. The injunction prevents the California Department of Motor Vehicles from issuing any new specialty plates on behalf of private organizations. By granting a preliminary injunction the court is acknowledging the fact that Women's Resource Network's case has a very good chance of succeeding. Mr. Millen believes that Women's Resource Center will win their case on summary judgment in the near future.

Mrs. Serrano emphasized that while she is glad that the selection process for specialty plates in California will be fairer, her main concern has always been to promote adoption.

So, how does this help get "Choose Life" license plates on the streets? The legislature is now prevented from using the discriminatory process they have been using to select private organizations for the specialty plate program. If Women's Resource Network wins its case, this preliminary injunction will become permanent. Most legislators still want the specialty plate program to be available to private organizations. This lawsuit will force the state to adopt a non-discriminatory selection process.

According to Dana Serrano, director of Women's Resource Network, California State Senator John Burton (D-San Francisco) is planning to propose legislation that would eliminate the legislative approval requirement for new specialty plates. Senator Burton had previously indicated that he would fight any attempt to change the selection process. It may be that pressure from WRN's lawsuit is helping to change the Senator's mind.

The selection process that is likely to be adopted is similar to successful programs from several other states. It would simply require an organization to apply with the Department of Motor Vehicles, register 7,500 motorists, and fulfill basic organizational accounting requirements.

Six states have already approved "Choose Life" license plates raising hundreds of thousands of

dollars for pro-life organizations. Mrs. Serrano emphasized that, while she is glad that the selection process for specialty plates in California will be fairer, her main concern has always been to promote adoption. Approval of "Choose Life" plates will allow her organization to help expectant mothers and adoptive families.

The fate of the California "Choose Life" license plates is still not certain, but the efforts of Dana Serrano, Mike Millen, State Senator Ray Haynes, and many others seem finally to be paying off.

Life Legal Defense Foundation thanks all of its supporters, your donations are helping to fund this lawsuit.

For more information about the legal action, please see Mr. Millen's web site at www.freespeechdefense.com. For more information about "Choose Life" license plates, or Women's Resource Network please see www.cachoose-life.org. **L**



[Mr. Irion is a second year law student and law review staff member at McGeorge School of Law.]

Please consider making a tax-deductible contribution today. Your generosity allows LLDF to fulfill its mission to provide a trained and committed voice in the courtroom so that pro-lifers can continue their life-saving work.

If you have stock that gives you more tax trouble than earnings, please consider donating it to LLDF. You can deduct the full value of the stock at the time of donation (no need to determine the basis). Thus, what may be a burden to you can be turned directly into support for the defenders of the defenders of life.

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FALL BANQUET

**The Board of Directors of Life Legal Defense Foundation
 cordially invites you to enjoy an evening with Grover G. Norquist
 and fellow pro-life attorneys and their guests.**
Bellevue Club, Oakland.
Saturday, November 8.



Hors d'oeuvres and No-host Bar—5 p.m. Dinner—6:30 p.m.

Please RSVP by November 3. Seating is limited.

Donation is \$100 per person
 (\$125 after October 26, any amount over \$50 per ticket is tax-deductible.)

Please call LLDF 707-224-6675 if you would like to attend.



About the speaker: Grover Norquist may be the foremost strategist and organizer in contemporary politics. Best known as president of Americans for Tax Reform and originator of its Taxpayer Protection Pledge—adopted by President Bush and thousands of candidates nationwide—he has long been a friend and advisor to pro-life leaders and activists in official Washington. From the White House to the state legislatures, his coalitions and his counsel have strengthened and advanced the pro-life movement. He is widely considered, in the words of former Speaker of the House Newt Gingrich, “the most innovative, creative, courageous and entrepreneurial leader ... of conservative grassroots activism in America.”