

Nos. 99-35320, 99-35325, 99-35327, 99-35331, 99-35405
(Consolidated)

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

PLANNED PARENTHOOD, *et al.*

Plaintiffs and Appellees,

v.

AMERICAN COALITION OF LIFE ACTIVISTS, *et al.*,

Defendants and Appellants.

APPEAL FROM THE
UNITED STATES DISTRICT COURT, DISTRICT OF OREGON
CASE NOS. CV 95-1671-JO, CV 95-1671-REJ

**BRIEF OF AMICI CURIAE
IN SUPPORT OF APPELLEES' PETITION
FOR *EN BANC* REVIEW**

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National Abortion Federation, National Coalition of Abortion Providers, National Organization
for Women Foundation, NOW Legal Defense and Education Fund, National Women's Health
Foundation, Northwest Women's Law Center, Physicians for Reproductive Choice and Health,
and Women's Law Project

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SOURCE OF AMICI'S AUTHORITY TO FILE BRIEF

Amici curiae Feminist Majority Foundation, National Abortion and Reproductive Rights Action League and NARAL Foundation, California NARAL, Montana NARAL, Washington State NARAL, National Abortion Federation, National Coalition of Abortion Providers, National Organization for Women Foundation, NOW Legal Defense and Education Fund, National Women's Health Foundation, Northwest Women's Law Center, Physicians for Reproductive Choice and Health, and Women's Law Project have moved for permission to file an amicus brief on behalf of plaintiffs' petition for rehearing *en banc*. As set forth below, amici are established organizations concerned with reproductive freedom. Amici participated in this matter at the appellate level with the consent of all parties.

STATEMENT OF AMICI'S INTEREST

The Feminist Majority Foundation ("the Foundation") is a non-profit organization with offices in Arlington, Virginia and Los Angeles, California. The Foundation is dedicated to eliminating sex discrimination and to the promotion of equality, women's rights, and safe access to abortion and birth control. The Foundation actively pursues legal protection for reproductive health services, and provided legal counsel for respondents in Madsen v.

Women's Health Center, Inc., 512 U.S. 753, 114 S. Ct. 2516 (1994), which upheld the use of clinic safety buffer zones. The Foundation also submitted an amicus curiae brief in support of respondents in Schenck v. Pro-Choice Network of Western New York, 519 U.S. 357, 117 S. Ct. 855 (1997).

The Foundation runs the largest clinic access program in the nation and has been active in defending clinics across the country. Since 1989, the Foundation's National Clinic Access Project has mobilized and trained more than 43,000 volunteers in 43 cities in 25 states to assist clinics targeted by anti-abortion groups. The Foundation has an interest in this case because its Project has spent significant time and resources working with physicians and clinic staff, as well as law enforcement, to protect reproductive health care providers from threats of violence and from violence. The Foundation conducts and publishes an annual comprehensive survey of violence at women's health clinics, which includes statistics on death threats, other threats of violence, and acts of violence against reproductive health providers around the country. In addition, both the President of the Feminist Majority Foundation and the National Coordinator of the Feminist Majority Foundation were listed on the "Nuremberg Files."

The National Abortion and Reproductive Rights Action League and the NARAL Foundation (collectively "NARAL"), with 29 state affiliates and

hundreds of thousands of members and supporters nationwide, are dedicated to keeping abortion safe, legal, and accessible for all women. NARAL's mission is to work through the political process to guarantee every woman the right to make personal decisions regarding the full range of reproductive choices, including preventing unintended pregnancy, bearing healthy children, and choosing legal abortion. NARAL supports and protects as a fundamental freedom a woman's right to make reproductive choices through education, training programs, and public policy initiatives. NARAL recognizes that the nationwide campaign of anti-choice violence threatens women's right to choose abortion by exacerbating the shortage of doctors willing to provide abortion services.

The National Abortion Federation ("NAF") is the professional association of abortion providers in the United States and Canada. NAF members include over 350 nonprofit and private clinics, women's health centers. Planned Parenthood facilities, and private physicians in 47 states, the District of Columbia, and Puerto Rico. NAF's programs include accredited continuing medical education and training, clinic defense, public and consumer education, and advocacy in furtherance of its mission to keep abortion safe, legal, and accessible. As an organization representing abortion providers who have endured kidnapping, stalking, death threats,

attempted murder, murder, and numerous other incidents of violence, NAF is committed to ensuring the physical safety of abortion providers and their patients. Such violence places not only health care providers in danger, but also jeopardizes all women's access to abortion services. NAF strongly believes that tactics such as the "Dirty Dozen" posters are illegal threats to the safety of clinic staff and patients alike.

The National Coalition of Abortion Providers ("NCAP") is an organization representing approximately 200 independent abortion clinics and their staff. For many years, NCAP members have been the target of anti-abortion harassment, intimidation and outright violence. Many of our doctors, clinic administrators and owners have been pictured on "Wanted" posters or have had their names and addresses listed on anti-abortion web sites, such as the "Nuremberg Files." NCAP recognizes that opponents of legal abortion have a right to express their views in a peaceful way. We also believe, however, that there is a limit to such rights and, when taken in the context of the campaign of domestic terrorism against clinics, we believe certain anti-abortion activities have crossed those lines.

The National Organization for Women Foundation ("NOW Foundation") is a 501(c)(3) organization devoted to furthering women's rights through education and litigation. NOW Foundation is affiliated with

the National Organization for Women, the largest feminist organization in the United States, with over 500,000 contributing members in more than 600 chapters in all 50 states and the District of Columbia. Since its inception in 1986, a major goal of NOW Foundation has been to ensure full equality for women, including reproductive freedom and the elimination of violence against abortion providers and the women who use their services. In furtherance of that goal, NOW Foundation has supported related litigation and legislation, including passage of the Freedom of Access to Clinic Entrances Act and winning the landmark Racketeer-Influenced and Corrupt Organizations Act case, NOW v. Scheidler, 510 U.S. 1215, 114 S.Ct. 1340 (1994).

The NOW Legal Defense and Education Fund ("NOW LDEF") is a leading national nonprofit civil rights organization that performs a broad range of legal and educational services to support women's efforts to eliminate sex-based discrimination and to secure equal rights. NOW LDEF was founded as an independent organization in 1970 by leaders of the National Organization for Women. A major focus of NOW LDEF's work is to oppose gender discrimination and promote reproductive health. To this end, NOW LDEF has litigated numerous cases involving clinic violence and efforts to protect safe access to reproductive health services, including Bray

v. Alexandria Women's Health Clinic, 506 U.S.263, 113 S. Ct. 753 (1993), and Schenck v. Pro-Choice Network of Western New York, 519 U.S. 357, 117 S. Ct. 855 (1997). NOW LDEF has also intervened on behalf of doctors, women, and clinics to defend the Freedom of Access to Clinic Entrances Act against constitutional challenges in several cases.

The National Women's Health Foundation ("NWHF") is a foundation that provides legal services, security, community education and affordable health care grants to women's health clinics. NWHF is affiliated with the National Women's Health Organization ("NWHO"), which was founded in 1976 to provide abortion and other women's health services to women in underserved and rural areas. NWHO serves as a management company for eight women's health clinics around the country in Wilmington, Delaware; Orlando, Florida; Columbus, Georgia; Ft. Wayne, Indiana; Jackson, Mississippi; Raleigh, North Carolina; Fargo, North Dakota; and Milwaukee, Wisconsin. NWHO clinics have been plaintiffs in over 30 cases, including in National Organization for Women v. Scheidler, a nationwide class action against lead anti-abortion extremists under the racketeering laws. In 1994, the United States Supreme Court unanimously held that the Racketeer Influenced and Corrupt Organizations Act did not require an economic motive, thus allowing this case to go to trial. 510 U.S.

249, 114 S. Ct. 798 (1994). In 1998, the jury returned a unanimous verdict in favor of the plaintiffs.

NWHO clinic staff, doctors and patients have been stalked, harassed, threatened, and even murdered by anti-choice extremists. Dr. David Gunn, who was murdered by Michael Griffin in 1993 and against whom the anti-abortion extremists published a "Wanted" poster prior to his murder, worked at our Columbus, Georgia, facility. In addition, NWHO's President was listed on the "Nuremberg Files." NWHF is committed to providing a safe place for women to receive medical care, and believes that the "wanted" posters and the "Nuremberg Files" are threats against these individuals specifically and against women's reproductive health generally.

The Northwest Women's Law Center ("the NWLC") is a non-profit public interest organization that works to advance the legal rights of all women through litigation, education, legislation, and the provision of legal information and referral services. Since its founding in 1978, the NWLC has been dedicated to protecting and expanding women's reproductive rights, and has long focused on the threats to women's access to abortion providers. Toward that end, the NWLC has participated as counsel and as amicus curiae in cases throughout the Northwest, and the country, to ensure that women have the ability to make their own reproductive choices. For

example, in Aradia Women's Health Center v. Operation Rescue, 929 F.2d 530 (9th Cir. 1990), the NWLC represented abortion clinics, women's groups, physicians, and patients in a case against Operation Rescue. The Law Center obtained the first injunction in the country that applied to all clinics in the state, and effectively stopped the blockades by bringing contempt actions against blockaders who refused to obey the court's injunction. The NWLC has also, inter alia, challenged efforts by prosecutors to bring criminal charges of child abuse against women who use controlled substances while pregnant; successfully fought anti-choice initiatives; and challenged efforts to force sterilizations on developmentally disabled women. The NWLC is currently involved in fighting legislative and litigation efforts that seek to limit women's reproductive freedom. The NWLC continues to serve as a regional expert and leading advocate on reproductive freedom.

Physicians for Reproductive Choice and Health ("PRCH") firmly supports the amici brief supporting the verdict and the use of the objective standard for threats in Planned Parenthood of the Columbia/Willamette v. ACLA. PRCH is a national physician-led not-for-profit organization founded in 1992. We represent more than 1,800 physicians of various disciplines and more than 1,000 non-physician supporters. Our members are

family practice physicians, obstetricians/gynecologists, pediatricians, internists, adolescent medicine specialists, psychiatrists and others. The mission of PRCH is to enable concerned physicians to take a more active and visible role in support of voluntary universal reproductive health. PRCH is committed to ensuring that all people have the knowledge, equal access to quality services and freedom of choice to make their own reproductive health care decisions. The ability of fanatical extremists to obtain personal information such as the home addresses of physicians and publish them on "wanted" posters has a serious effect on the providers themselves, as well as on the provision of women's reproductive health care in general. Physicians and staff under threat of personal attacks may choose not to provide and the current provider shortage (approximately 86% of all counties in the United States do not have an abortion provider) will only increase, leaving more women without access to essential health services. Additionally, the threats will influence women who fear for their personal safety not to seek needed health services.

The Women's Law Project ("the Law Project") is a Philadelphia-based, not-for-profit women's legal advocacy organization founded in 1974 for the purpose of advancing women's legal, social, and economic status. The Law Project provides free telephone counseling to 8,000 callers a year

on problems including domestic violence, child support and custody, divorce, employment discrimination, and welfare. The Law Project also has litigated extensively on behalf of women's medical providers and patients. Its litigation docket has included such landmark reproductive rights cases as Planned Parenthood v. Casey, Elizabeth Blackwell Health Center for Women v. Knoll, Roe v. Operation Rescue, and Thornburgh v. American College of Obstetricians and Gynecologists. A number of its clients have experienced illegal, violent clinic blockades, arson fires, bomb threats, assaults, and death threats by anti-abortion extremists, and several doctors providing abortion services in Pennsylvania have been repeatedly stalked and harassed at their homes. Vigorous enforcement of the Freedom of Access to Clinic Entrances Act is crucial to keeping these providers and their patients safe from terrorist violence and harassment.

I. INTRODUCTION

This is a case about threats - direct, malevolent, and menacing threats. Defendants conveyed these threats through WANTED-style posters; posters listing targeted reproductive health service providers' names, addresses, and other personal information; and an Internet website identifying doctors, clinic workers, and others on whom "[a] coalition of concerned citizens" was "collecting dossiers" in anticipation of a future "payday." Given the long and bloody history of violence directed at abortion clinics and providers - including a history of WANTED-style posters appearing before murders - plaintiffs heard exactly the message defendants intended to convey: "We know where you are. We know where your families are. We have gotten to others. We can get to you."

As the district court and jury found, the defendants' speech threatened the doctors and clinics in this case within the meaning of the Freedom of Access to Clinic Entrances Act and First Amendment jurisprudence in this Circuit and elsewhere across the country. In concluding to the contrary, the panel improperly ignored these findings as well as established Ninth Circuit law governing the interpretation of threats. Amici Curiae, therefore join plaintiffs' request for a rehearing *en banc* and respectfully urge the full Court to affirm the judgment below.

II. ARGUMENT

A. THE POSTER OF DR. CRIST, DEADLY DOZEN POSTER AND THE NUREMBURG FILES WEBSITE ARE THREATS OF VIOLENCE.

The Freedom of Access to Clinic Entrances Act (FACE) provides civil and criminal penalties against anyone who “by force or threat of force . . . intimidates or interferes with or attempts to . . . intimidate or interfere with any person” because that person provides reproductive health services. 18 U.S.C. Sec. 248(a)(1). The panel’s decision determined that the WANTED-style GUILTY poster of Dr. Crist and “DEADLY DOZEN” poster and the Nuremberg Files website were not “true threats” under this statute.

Among other problems, the panel’s decision misapplies settled Ninth Circuit law, which holds that the test of a “true threat” is “whether a reasonable person would foresee that the statement would be interpreted by those to whom the maker communicates the statement as a serious expression of intent to harm or assault,” U.S. v. Orozco-Santillan, 903 F.2d 1262, 1265 (9th Cir. 1990), and that, in making this determination, the trier of fact must consider the “entire factual context, including the surrounding events and reaction of the listeners.” Id.; accord Lovell v. Poway Unified School Dist., 90 F.3d 367 (9th Cir. 1997). Instead, the panel has articulated a

standard that overemphasizes the literal words of the threat and thus allows terrorists to continue to victimize their targets simply by avoiding the use of overtly violent language. In so holding, the panel has ignored the fact that not only the jury and district judge but *everyone* connected with this case—including the plaintiffs, law enforcement officials, Congress and even the defendants themselves—saw the defendants’ speech as a true threat.

1. *Plaintiffs*: After the publication of the threats, the plaintiffs purchased bullet-proof vests and changed their life styles and work habits in order to avoid being physically attacked. Opinion at 3937. See, e.g., U.S. v. Dinwiddie, 76 F.3d 913 (8th Cir. 1996) (effect on listeners is relevant); U.S. v. Malik 16 F.3d 45, 50 (2d Cir. 1994) (context “the most significant of which was the recipients states’ of mind and their reaction” can remove ambiguity from threat).

2. *Law Enforcement Officials*: After the threats were issued, federal and local law enforcement entities contacted several of the plaintiffs and offered security advice and services. Planned Parenthood of Columbia/Willamette v. American Coalition of Life Activists, 41 F. Supp. 2d 1130, ¶¶ 15, 26 (D. Or. 1999).

3. *Congress*: FACE specifically prohibits threats made to “intimidate” health providers; the panel’s opinion states in its first line that

“anti-abortion activists intimidated” the plaintiffs. Furthermore, in the findings that accompanied FACE, the Congressional committee listed several actions that would be considered illegal threats, including the use of WANTED-style posters. S. Rep. No. 103-117 at 20-21.

4. *Defendants*: The defendants themselves admitted that the point of the WANTED-style posters was to make the plaintiffs fearful. Planned Parenthood, 41 F. Supp. 2d at ¶¶ 185 (concerning WANTED posters, defendant Burnett testified “I mean if I was an abortionist, I would be afraid”), 220, 416 (defendant Wysong stated “[t]hey [physicians who perform abortions] said the two things they feared most were being sued for malpractice and having their picture put on a poster”). As the defendants were aware, two physicians were murdered following the publication of similar posters (*id.* at ¶¶ 39, 40, 41, 48, 53, 54); the defendants capitalized on this known poster/murder pattern.

In light of the overwhelming, and essentially uncontradicted evidence that defendants’ speech was reasonably construed as a threat, just as defendants intended it to be, the panel’s decision cannot be permitted to stand.

B. DEFENDANTS ARE RESPONSIBLE FOR THE CONTEXT THAT SURROUNDED THEIR SPEECH.

The panel wrongly concludes that the defendants' speech was infused with violence solely because of the actions of others. Opinion at 3938. As shown throughout the trial, and as the district court and the jury found, these defendants are part of the extreme wing of the anti-abortion movement that promotes the use of violence against abortion providers, have participated in physical actions against abortion providers and facilities and routinely ignore the law. The chart attached at Appendix 1 shows many of the defendants' own violent and unlawful activities; the following list includes some specific highlights.

1. *The defendants have approved of lethal violence as a tactic against abortion providers: See Dinwiddie*, 76 F.3d 913 (8th Cir. 1996) (defendant's belief in justifiable homicide relevant to whether speech threat under FACE); *U.S. v. McMillan*, 946 F.Supp. 1254, 1267-1268 (S.D. Miss 1995) (same).

- Defendants Bray, Burnett, Crane, Dodds, McMillan, Ramey and Stover have signed justifiable homicide petitions endorsing lethal force against abortion providers. *Planned Parenthood*, 41 F. Supp. 2d at ¶¶ 42, 52, 137, 142, 161, 162, 233, 296, 297, 347.

- ACLA was formed after the defendants were forced to leave the leadership of Operation Rescue because these defendants would not renounce violence as a tactic against abortion providers. Id. at ¶ 73.
- According to ACLA co-founder defendant Andrew Burnett, “if someone was to condemn any violence against abortion, they probably wouldn’t have felt comfortable working with us.” Id. at ¶ 74.
- Defendant McMillan stated “those employees [of facilities that provide abortions] choose to work in a place where human beings are being killed. They choose to enter the killing zone and they need to understand and be warned that people who choose to kill and be accessories to murder may very well have violence done against them to stop the violence they are perpetrating on human beings in the womb.” Id. at ¶ 307; see also ¶¶ 69, 299, 308, 312, 333.

2. The defendants participate in and endorse the physical and violent effort of anti-abortion extremists to limit access to abortion services and used this context in their speech:

- Defendant Michael Bray has been convicted on three felony counts involving the arson and bombing of seven abortion clinics. Id. at ¶ 66.

- Defendant Foreman has been found by a federal judge to have “bumped, shoved, and slashed or pushed” a doctor in California who performs abortions. Id. at ¶ 285.
- Defendant McMillian is the subject of a FACE injunction obtained by the United States Department of Justice because of verbal threats made against an abortion clinic. McMillian, 946 F.Supp. 1254.
- When defendant Drete protests outside St. Louis abortion clinics, he often wears a hat adorned with shotgun shells. Planned Parenthood, 41 F. Supp. 2d at ¶ 265.
- One week after the murder of Dr. Gunn, Drete stood outside of a St. Louis abortion clinic where Dr. Yogendra Shah performed abortions and held up a sign “Dr. Shah, do you feel under the Gunn?” Id. at ¶ 44, 266.
- Defendant McMillan invoked the Fifth Amendment when asked if he had ever damaged an abortion clinic. Id. at ¶ 306.
- Defendant Burnett attempted to assault a clinic worker at one of the plaintiff’s offices. Id. at ¶ 167.
- Defendants were aware that prior to the murders by anti-abortion extremists of Dr. Gunn and Dr. Britton, WANTED-style posters had been published of these physicians. Id. at ¶¶ 39, 40, 41, 48, 53, 54.

- Defendants were aware that physicians had ceased performing abortions because their faces appeared on WANTED-style posters. Id. at ¶ 218, 262, 416.

3. *The defendants have shown a constant disregard for the laws of the country and for the rulings of the trial court in this case:*

- Defendant Burnett has violated an injunction against him obtained by Downtown Women's Center, where two plaintiffs work. Id. at ¶ 166.
- Defendant McMillan published a book in which he stated his position that it is not "immoral to tell the judge that you will pay a fine as a condition of being released and not pay the fine." Tr. 1229.
- Neal Horsley and Paul deParrie conspired with defendants by destroying or assisting in concealing the hard copy versions of the Nuremberg Files so that they would not be available to plaintiffs or the Court. Planned Parenthood, 41 F. Supp. 2d at ¶ 426. The district court specifically found that the testimony of the defendants regarding the location of the Nuremberg Files was "not credible." Id. at ¶ 453.

In short, these defendants are not non-violent protesters or leafletters as the panel's decision would have one believe. They endorse and condone violence against abortion providers. They directly orchestrated and contributed to the climate in which speech such as the WANTED-style

posters and the Nuremberg Files website was perceived by the jury, the district judge, law enforcement officials and the plaintiffs as true threats. See, e.g., U.S. v. Khorrami, 895 F.2d 1186, 1193 (7th Cir. 1990) (WANTED poster threat given context of phone calls and other harassment).

C. THE LARGER CONTEXT OF ANTI-ABORTION VIOLENCE MUST BE CONSIDERED.

The panel also erred in stating that third-party context cannot be used in determining whether defendants' speech constituted a threat. Abortion providers and facilities have been the targets of extreme violence including assassination, arson, bombings, invasions, blockades and chemical attacks. Since 1991, eight people have been murdered and twenty-three people have been wounded by anti-abortion violence. See Feminist Majority Foundation "Terrorist Attacks on Abortion Providers 1991-2000" (attached as Appendix 2). The record established indisputably that the defendants knew of and condoned violence against abortion providers and specifically utilized tactics to invoke the fear of that violence in their listeners. Thus, rather than having their speech thrust into a context not of their making, as the panel's decision suggests, defendants knew of, approved and *used* the context to strengthen their threats. Planned Parenthood, 41 F. Supp. 2d at ¶ 41, 53, 151, 186, 218, 262, 416. In these circumstances, the panel's determination

that third-party context cannot be used in determining whether defendants' speech constituted a threat cannot be justified.

Moreover, the panel's refusal to allow evidence of third-party context is not in keeping with this Circuit's decision in Lovell and the decision of another circuit. See Lovell 90 F.3d 367 (words uttered by student specific enough to convey true threat of physical harm "particularly . . . when considered against the backdrop of increasing violence among school children today"); U.S. v. Hart, 212 F.3d 1067 (8th Cir. 2000) (Ryder truck parked by clinics threat under FACE given context of Oklahoma City bombing).

III. CONCLUSION

Plaintiffs in this case are abortion providers who have been forced to "don[] bullet proof vests, draw[] the curtains on the windows of their homes and accept[] the protection of U.S. Marshals." Opinion at 3929. Yet, under the panel's opinion, the only thing they can do is wait to be targets of the next round of violence. Because the panel's opinion in this case is contrary to existing Circuit law, and offers plaintiffs no protection from true threats

of violence specifically outlawed by Congress, *en banc* review by this Court is necessary and appropriate.

Dated April 11, 2001

Respectfully Submitted,

FEMINIST MAJORITY FOUNDATION'S
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CERTIFICATION OF COMPLIANCE

I certify that:

Pursuant to Fed. R. App. P. 29(d) and Ninth Circuit Rules 32-1 and 40-1, the attached amicus brief is proportionately spaced, has a typeface of 14 points or more, and contains 2,100 words or less.

Dated: April 11, 2001

CHAPMAN, POPIK & WHITE

By: 
Susan M. Popik 

Attorneys for Amici

APPENDIX 1

Appendix 1

Examples of Defendants' Participation in and Endorsement of Anti-Abortion Law Breaking and Violence¹

Defendant	Condone Violence Against Abortion Providers or Facilities	Anti-Abortion Arrests and Law Breaking Activities	Violation of Court Orders related to Anti-Abortion Activities
Michael Bray	Justifiable Homicide Petition (§§ 137, 138, 142, 146, 147)	Arson conviction (§ 66) for arsons of seven abortion clinics	Violated Court orders in <u>Planned Parenthood of Columbia Willamette v. American Coalition of Life Activist</u> , 41 F. Supp. 2d 1130 (D. Or. 1999)
Andrew Burnett	Justifiable Homicide Petition (§§ 161, 162, 163)	Attempted assault (§ 167)	Violated Injunction (§ 166)
David Crane	Justifiable Homicide Petition (§§ 195, 196))	Arrested approximately 10 times (Tr. 1377)	Violated Injunction (Tr. 1377)
Michael Dodds	Justifiable Homicide Petition (§ 233)	Arrested approximately 20 times (Tr. 1490, 2072-73)	
Timothy Dreste		Arrested approximately 140 times (Tr. 1169; Tr. 1176; Ex. 149)	Violated Injunction (§ 166)
Joseph Foreman	Justifiable Homicide Petition (§ 274)	Assault (Ex. 474; Tr. 2184)	Violated Injunction (Tr. 2174, 2180)
Charles McMillan	Justifiable Homicide Petition and statements (§§ 296, 297, 298, 299, 306, 307)	Subject of a FACE injunction, 946 F.Supp. 1254; invoked the 5 th Amendment when asked if had ever harmed an abortion clinic. (§ 306)	
Bruce Murch	Statements (§§ 322, 335)		Violated Injunction (Tr. 1086)

¹ Citations with the symbol "§" are references to Planned Parenthood of Columbia Willamette v. American Coalition of Life Activist, 41 F. Supp. 2d 1130 (D. Or. 1999). Citations with the symbol "Tr." are references to the trial transcript.

Defendant	Condone Violence Against Abortion Providers or Facilities	Anti-Abortion Arrests and Law Breaking Activities	Violation of Court Orders related to Anti-Abortion Activities
Catherine Ramey	Justifiable Homicide Petition (§ 347, 348)	Arrested several times (Tr. 1086)	Jailed for civil contempt (Tr. 1086) Deleted documents requested in discovery (Tr. 2513-14)
Dawn Stover	Justifiable Homicide Petition (§§ 371, 372)	Arrested approximately 30 to 40 times (Tr. 2424)	Has not paid court ordered fines (Tr. 1478)
Donald Treshman	Statements (§ 396))	Convicted more than 60 times (Tr. 1496-97)	Has not paid court ordered fines (Tr. 1496-97)
Charles Wysong		Arrested 4 times (Tr. 1181-82)	Violated injunction (Tr. 1181-82)

APPENDIX 2

**FEMINIST MAJORITY FOUNDATION
TERRORIST ATTACKS ON ABORTION PROVIDERS 1991 - 2000**

Eight Dead, Twenty-Three Wounded

EIGHT DEAD

Pensacola, FL March 1993.

Dr. David Gunn shot and killed at the rear entrance of a clinic.
Michael Griffin sentenced to life.

Mobile, AL August 1993.

Dr. Wayne Patterson shot and killed.
Police have not identified this as anti-abortion related, despite the following: Dr. Patterson owned the clinic where Dr. Gunn was murdered and Dr. Gunn was substituting for Dr. Patterson at the time of his assassination because Dr. Patterson was being tormented by anti-abortion extremists. Dr. Patterson had asked Dr. Gunn to substitute for him to 'cool off' the extremists.
The case remains unsolved.

Pensacola, FL July 1994.

Dr. John Bayard Britton and volunteer clinic escort Lt. Col. James Barrett shot and killed in a truck in the clinic driveway.
Paul Hill sentenced to death.

Brookline, MA December 1994.

Staff members at two neighboring clinics, Shannon Lowney and Leanne Nichols, shot and killed at the reception desks of their respective clinics.
John Salvi killed himself while serving a life sentence.

Birmingham, AL January 1998.

Off-duty police officer Robert Sanderson killed in a bomb explosion at New Woman, All Women clinic. The Army of God has claimed credit.
Fugitive Eric Robert Rudolph charged and remains on FBI's 10 Most Wanted list.

Amherst, NY October 1998.

Dr. Barnett Slepian was shot and killed by a sniper with a high-powered rifle while in his home.
James Charles Kopp indicted for murder.

TWENTY-THREE WOUNDED

Springfield, MO December 1991.

Clinic staff member Claudia Gilmore shot in clinic and paralyzed from the waist down. A second person also wounded.

The masked gunman has never been apprehended.

Houston, TX 1991.

Dr. Douglas Karpen shot and wounded in parking garage near clinic.

Assailant was never apprehended.

Pensacola, FL July 1994.

June Barrett shot and wounded in the attack that killed her husband Ret. Lt. Col. James Barrett and Dr. Britton. Paul Hill sentenced to death.

Wichita, KS August 1993.

Dr. George Tiller shot five times at point-blank range in his car as he raised both arms to protect himself while leaving his clinic.

Rachelle Shannon sentenced to 11 years.

Vancouver, BC November 1994.

Dr. Garson Romalis wounded in the leg when shot by a high powered rifle through the window of his home.

James Charles Kopp remains a primary suspect in the assassination attempt.

Brookline, MA December 1994.

Five people wounded in the gunfire attack that killed Shannon Lowney and Leanne Nichols.

John Salvi killed himself while serving a life sentence.

Ancaster, Ont. November 1995.

Dr. Hugh Short shot in the elbow by a sniper using a high-powered rifle to shoot through the window of Short's home.

James Charles Kopp indicted.

New Orleans, LA December 1996.

Dr. Calvin Jackson brutally stabbed 15 times outside his clinic. The assailant, Donald Cooper, was then arrested at a Baton Rouge clinic as he lay in wait for another doctor. Cooper charged with attempted second degree murder.

Atlanta, GA January 1997.

Seven injured in two bombings at Northside Family Planning. The second bomb detonated an hour after the first, targeting law enforcement officials. The Army of God has claimed credit for these attacks. Fugitive Eric Robert Rudolph charged and remains on FBI's Ten Most Wanted list.

Winnipeg, Ont. November 1997.

Dr. Jack Fainman shot by a sniper with a high powered rifle while in his home. Missing his heart by only inches, the bullet tore through his shoulder. James Charles Kopp remains a primary suspect.

Rochester, NY October 1997.

An unnamed doctor was shot and wounded by a sniper with a high powered rifle while in his home. James Charles Kopp remains a primary suspect.

Birmingham, AL January 1998.

Clinic nurse Emily Lyons maimed by a bombing that killed off-duty police officer Robert Sanderson. The Army of God has claimed credit. Fugitive Eric Robert Rudolph charged and remains on FBI's Ten Most Wanted list.

Vancouver, BC July 2000.

Dr. Garson Romalis, also a shooting victim in 1994, stabbed in the back by an unknown assailant as he entered his clinic. Assailant remains at large.

PROOF OF SERVICE BY MAIL

I, Tina L. Layne, declare:

I am employed in the City and County of San Francisco, California. I am over the age of eighteen years and not a party to the within entitled action. My business address is Chapman, Popik & White, 650 California Street, 19th Floor, San Francisco, CA 94108.

On April 11, 2001, I served the following document(s):


BRIEF OF AMICI CURIAE IN SUPPORT OF APPELLEES' PETITION FOR *EN BANC* REVIEW

on the parties in this action by placing two true copies thereof enclosed in a sealed envelope with postage fully prepaid, in the United States mail, at San Francisco, California, addressed as follows:

[Please see attached Service List.]

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 11, 2001 at San Francisco, California.


Tina L. Layne

Planned Parenthood, et al.,
v. American Coalition of Life Activists, et al.
United States Court of Appeal for the Ninth Circuit
Case Nos. 99-35320, 99-35325, 99-35327, 99-35331, 99-35405
(Consolidated)

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