



THE **ACLA** REPORT

Newsletter of the American Catholic Lawyers Association, Inc.

January 2000

FORMER ARMY PRIEST'S CASE SETTLED

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As previously reported, the Association served its lawsuit on behalf of Father Frank P. Valentino, S.J., upon the U.S. Attorney in Newark, New Jersey, on September 2, 1999. The suit alleged violations of Title VII of the 1964 Civil Rights Act and the Bill of Rights in the 1997 dismissal of Fr. Valentino from his post as assistant chaplain for the Catholic congregation of St. Joan of Arc at the Fort Monmouth military base after he insisted on Roman Catholic orthodoxy in the face of a dissident element there and opposition from his non-Catholic base superior.

On Nov. 12, the ACLA filed an Amended Complaint to include a count alleging that the military violated Father's rights under the Religious Freedom Restoration Act of 1993 (RFRA), an act

which appears to remain in force as to the Federal Government despite having been overturned as to the individual states by the U.S. Supreme Court.

Within days of the filing of the Association's Amended Complaint, the Assistant U.S. Attorney assigned to Father Valentino's case contacted the Association to settle. The terms of this settlement must remain confidential. Father, who is now serving at a parish in Brooklyn, New York, says, "I'm really glad to hear that the Army has finally responded to my just claims. This result vindicates the rights of faithful Catholics of St. Joan of Arc Congregation. I am grateful for the support the American Catholic Lawyers Association gave me." □

ACLA WINS PROTECTIVE ORDER IN OREGON CASE

The United States Court of Appeals for the Ninth Circuit is still considering the Association's appeal from the \$107 million judgment and permanent injunction entered in February and March 1999 against Catholic pro-lifers Donald J. Treshman, C. Roy McMillan, and Monica Migliorino Miller, Ph.D., two pro-life organizations, and numerous other individual pro-lifers in the case of *Planned Parenthood of the Columbia/Willamette, et al. v. American*

Coalition of Life Activists, et al., in Portland, Oregon.

Meanwhile, amongst the recent judgment collection proceedings by the pro-abortion plaintiffs was their demand in U.S. District Court, the trial-level court in Portland, that co-defendant Advocates for Life Ministries (AFLM) disclose its membership/donors list to them. This outrageous demand, had it been
(See "Protective Order", p. 2)

Protective Order (from page 1)

successful, would have represented a gross violation of pro-life activists' constitutional rights to privacy and freedom of association. The ACLA opposed this Planned Parenthood demand with the able help of Portland lawyer Norman L. Lindstedt, and, on November 19, won a Protective Order from Federal

Judge Robert E. Jones prohibiting disclosure of AFLM's membership/donors list to Planned Parenthood. This is a *major victory* for the First Amendment and confidentiality rights of pro-life activists in America. □

ACLA DEFENDS BUFFALO SUIT BY PLANNED PARENTHOOD AGAINST PRO-LIFE SIDEWALK COUNSELORS

As reported in an earlier issue, the ACLA has been defending a lawsuit brought by New York State Attorney General Eliot Spitzer, Planned Parenthood of the Rochester/Syracuse Region, the Pro-Choice Network of Western New York, and several other abortion providers against Catholic pro-life sidewalk counselor Mary Melfi, a member of Father Norman Weslin's Lambs of Christ organization. Fr. Weslin and Lambs of Christ, as well as Operation Rescue National, Rescue Rochester, Last Call Ministries, the Christian American Family Life Association, and many other individual peaceful anti-abortion protestors are also among the defendants.

The suit, brought in the U.S. District Court for the Western District of New York, in Buffalo, on March 22, 1999, claims that the defendants are in violation of the 1994 Freedom of Access to Clinic Entrance Act, known as FACE.

The suit seeks to squelch "sidewalk counseling" of women entering abortion clinics in Western New York so that they will no longer have the opportunity to be persuaded not to abort their babies. Furthermore, since the presence of pro-lifers at clinics is bad for business in America's abortion industry, the suit seeks to prevent their protests from being seen or heard by patients or staffers, a clear intrusion upon First Amendment liberties. These two objectives are to be accomplished by drastic expansion of the 15 foot "buffer zone" restrictions on demonstration at the

clinics which already apply to the Buffalo area clinics under an earlier injunction. Even though this old injunction can be made applicable to the current situation, Planned Parenthood was not satisfied. Through their new FACE suit, they obtained a Temporary Restraining Order (TRO) on April 15, 1999, just prior to Rev. Flip Benham's "Operation Save America" protests in the Rochester region, decreeing that Mary Melfi and the others not demonstrate, assemble, *be present*, or post or carry signs on the public sidewalk at Planned Parenthood's facility in that city within a buffer zone measured from 50 feet from one edge of its driveway entrance and 25 feet from one of the edges of the building.

Like the Oregon FACE/RICO case (see separate articles), the Buffalo suit asserts that Melfi, Fr. Weslin, and another Catholic "Lamb of Christ", Robert Pokalsky, used supposedly threatening and inflammatory language and posters in the announcements of "Operation Save America" in their local newsletter and on Operation Rescue National's internet site. As in Oregon, the language used is allegedly a true threat in violation of FACE because of the "climate of fear and intimidation" created by the shootings of abortion providers who were pictured on similar posters - posters and shootings which the pro-life defendants had nothing to do with!

(See "Pro-Life Sidewalk Counselors, p. 3")

Pro-Life Sidewalk Counselors (from page 2)

Hearings which take up some 4,000 pages of court transcript were held in the Buffalo suit several months ago to help U.S. District Court Judge Richard J. Arcara decide if he should transform the TRO into a full preliminary injunction against the defendants. During the hearings, a security guard at Planned Parenthood's Rochester abortuary admitted to ACLA Chief Counsel Christopher A. Ferrara under cross-examination that he could not actually hear protests there when he stepped inside the building. Another clinic staffer admitted that she is able to carry on telephone counseling during these purportedly loud and offensive demonstrations right outside her window.

Perhaps the real crux of this FACE suit was reached when another witness admitted that the

Western New York pro-lifers have had success in talking women out of abortion at the clinics! The only solution seems to be to rid the existing "buffer zones" of people like Mary Melfi and Robert Pokalsky.

The ACLA has served interrogatories and document production requests on the pro-abortion plaintiffs. It is anticipated that a trial will eventually be held to ascertain if the pro-life defendants are actually liable to the pecuniary penalties and damages provided for by FACE, a Clinton-era ~~Federal~~ law which has already drastically cut down on the presence of pro-life protestors in America, including at this past April's "Operation Save America", for fear of its Draconian sanctions. □

ACLA SUPPORTER PLEDGES MATCHING GIFT

Don Cummings, a generous donor to this apostolate who lives in the Diocese of Allentown, has offered to match the first \$10,000.00 in donations to the American Catholic Lawyers Association, Inc., received in response to this issue of *The ACLA Report*. Mr. Cummings, an ardent Pro-Lifer and promoter of the Traditional Latin Mass, says: "I first heard of [ACLA Chief Counsel] Christopher Ferrara when I listened to a tape cassette of his defense of Gerry

Matatics from critics. I then heard of the RICO/FACE case against the pro-life advocates in Oregon, which the ACLA has been defending. I hope the jury's verdict for the pro-abortion plaintiffs is overturned on appeal."

It is the Association's hope that faithful Catholics like you will be generous enough during this Christmas/Epiphany season to quickly make Mr. Cummings' matching gift offer a reality. □

ACLA OPPOSES CONTEMPT PROCEEDINGS IN OREGON CASE

Meanwhile, the pro-abortion plaintiffs and their lawyers have astonishingly interpreted one of the clauses of the Amended Permanent Injunction entered by Judge Jones on March 16, 1999 to mean that the pro-life defendants cannot spend any money on anything until the \$107 million judgment against them is paid – that is, for the rest of their lives -- and that even receiving poverty level wages is a "transfer of assets" in "violation" of the injunction! This is tantamount to an effort to turn the defendant pro-life

activists into lifetime indentured servants, in violation of the Fifth and Thirteenth Amendments to the U.S. Constitution.

On December 13-14, ACLA Chief Counsel Christopher A. Ferrara, West Coast Counsel James M. Bendell, and local Portland counsel Norman L. Lindstedt appeared before Judge Jones for a contempt hearing brought on by the Planned Parenthood plaintiffs, who indeed claim that some of the pro-lifers (See *Opposes Contempt Proceedings*, p. 4")

Opposes Contempt Proceedings (from page 3)

have transferred assets in violation of the March injunction in an alleged effort to frustrate collection of the huge judgment. Portland veteran pro-life activist Paul deParrie was stricken with cardiac symptoms moments before the hearing got under way and was taken to a hospital by paramedics. After listening to Planned Parenthood's claims that the injunction forbids any defendant to spend money on anything, Judge Jones adjourned the hearing to April 2000 and invited the ACLA to file a formal motion to dismiss the contempt proceedings. Please pray that Planned Parenthood's outrageous claims are dismissed.

You may recall that the plaintiffs assert in this case that the pro-life activists violated the Racketeer Influenced and Corrupt Organizations Act (RICO) and the 1994 Freedom of Access to Clinic Entrances Act (FACE) by means of disseminating a few pro-life posters containing typically robust American political rhetoric, such as calling a baker's dozen of abortion doctors "The Deadly Dozen", and being tangentially involved with a web site operated by a man from

Georgia who the pro-abortion litigants did not even bother to name as a party defendant so as to actually obtain the Portland Federal court's jurisdiction over him. You may also recall that it was the plaintiffs' novel theory of "context", involving introduction of evidence consisting of constant testimony at trial about murders, bombings, arsons, and shootings which the defendants had nothing to do with, that made the clearly non-threatening verbiage in the disputed posters and Internet site into "true threats" in the eyes of the jury back in early February. A similar theory is being used in the Buffalo FACE suit against pro-lifers reported elsewhere in this issue.

Please pray fervently for success in our appeal of the Portland judgment and injunction in the Ninth U.S. Circuit Court of Appeals, in San Francisco, so that Catholic and other pro-life activists will no longer have to check for a "climate of violence" outside their windows before they can hold up their anti-abortion, anti-Culture of Death posters in public. □

REMEMBER THE ASSOCIATION IN YOUR WILL

The ACLA is always in need of funds to continue litigating its significant cases affecting the rights of Catholics in America. Tax-deductible donations from loyal Catholics like you make it possible for us to defend fellow Catholics who otherwise would be without vigorous legal representation in the courts. If you wish, you may also remember us in your last will by means of a simple clause such as: "I give, devise and bequeath the sum of _____ Dollars (\$ _____) to the **American Catholic Lawyers Association, Inc.**, for purposes of said association's general funds."

American Catholic Lawyers Association, Inc.

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