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# LIFELINE

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## FRUITS OF DAVID DALEIDEN'S CENTER FOR MEDICAL PROGRESS EXPOSÉ: CONGRESSIONAL INVESTIGATION

*Mary Rose Short*

The Select Investigative Panel on Infant Lives is pushing forward with its investigation of fetal tissue trafficking despite the objections and resistance of Planned Parenthood's partners in crime. Since the Panel's creation on October 7, 2015, it has held two hearings and issued multiple rounds of subpoenas to individuals and organizations involved in the fetal tissue market.

In response to objections that the subpoenas are outside of Congressional authority, the Select Panel chairwoman, Rep. Marsha Blackburn, responded, "The U.S. House of Representatives performs a quintessentially legislative role... . Indeed, the Supreme Court 'has often noted that the power to investigate is inherent in the power to make laws because a legislative body cannot legislate wisely or effectively in the absence of information respecting the conditions which the legislation is intended to affect or change.'"

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IF DEATH CAN BE "REDEFINED"

# Ongoing Legal Action Against David Daleiden

2015



JULY 27

StemExpress, a dealer in human tissue, sued David and CMP seeking an injunction and damages. The injunction was denied, allowing the release of the video of CMP's dinner meeting with the StemExpress CEO. The remainder of the case is proceeding, partially on appeal.



JULY 31

The National Abortion Federation, an international abortion trade organization, sued David and CMP in federal district court in San Francisco seeking an injunction and damages under RICO and other claims. The court granted an injunction barring the release of videos taken at two NAF meetings. The injunction is on appeal to the Ninth Circuit. The remainder of the case is stayed, pending the appeal.



AUGUST 5

The California Attorney General initiated an audit of CMP.

## KNOWN POSITIVE OUTCOME TO DATE:

### CASES TO WATCH

#### Planned Parenthood v. Daleiden et al. (Calif.)—

In January 2016, Planned Parenthood Federation of America and several PP affiliates sued David Daleiden and several of his fellow investigators for the express purpose of punishing them for their investigative work. Claiming over \$10 million in actual damages, Planned

Parenthood is also seeking treble damages for alleged “racketeering” (RICO) as well as punitive damages and attorney fees. The abortion giant is represented by one of the largest law firms in the United States. Daleiden and his co-defendants have filed motions to dismiss and anti-SLAPP motions.

#### NAF v. Daleiden and CMP (Calif.)—

National Abortion Federation sued Daleiden to prevent release of the recordings and information he obtained at the NAF meetings on the grounds that he is a “racketeer” who “committed fraud,” “snuck into” their completely secure,

private meetings, “stole” NAF information, and repelled them with his constant questions about buying fetal tissue. The district court’s ruling granting NAF a preliminary injunction is on appeal to Ninth Circuit, and lower court proceedings have been stayed pending the appeal.

# and the Center for Medical Progress

2016



JANUARY 14

Planned Parenthood Federation of America and all the Planned Parenthood affiliates in California sued David and CMP under RICO and other claims, seeking an estimated \$10-16 million in damages. The case is proceeding in federal district court in San Francisco. Planned Parenthood Rocky Mountains and Planned Parenthood Gulf Coast joined the lawsuit on March 24.



JANUARY 25

A Harris County, Texas grand jury indicted David and his fellow investigator Sandra Merritt on felony charges of tampering with a government record, specifically a driver's license. David was also charged with offering to buy human tissue. [The indictment allows Harris County to bring David and Sandra to trial for these crimes, which carry a maximum sentence of twenty years in prison.]



APRIL 5

Agents from the California Department of Justice executed a search warrant on David's home and car, seeking evidence of illegal recording and use of false IDs.



JUNE 14

Harris County Texas Criminal Court Judge dismissed the first of two criminal charges against David Daleiden. Hearing on felony charge of tampering with a government ID will be held on July 26.



**Several states have found Planned Parenthood in violation of laws concerning the storage and disposal of fetal tissue, performing abortions without a license, and improper record-keeping. Investigations of Planned Parenthood are ongoing in several states and in the United States Congress. [See page 1]**

**Stem Express v. CMP and David** (Calif.)—StemExpress, the biotech firm buying baby body parts from Planned Parenthood in earlier undercover videos, filed a lawsuit against the Center for Medical Progress to prevent the release of video material obtained by CMP. **Partial victory:** The injunction was denied, allowing the release of the video of CMP's dinner meeting with the

StemExpress CEO. Discovery has commenced while the defendants appeal in part the denial of their anti-SLAPP motion.

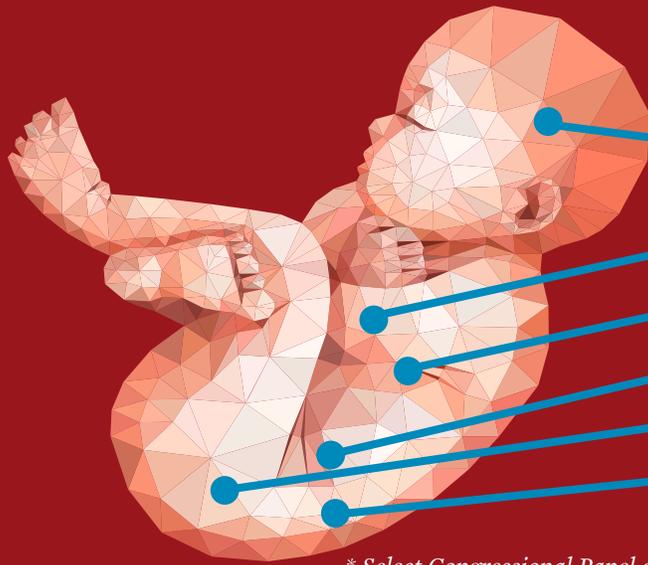
**Respect Life South San Francisco v. City of South San Francisco and Planned Parenthood** (Calif.)—Petition for writ of mandate to overturn grant of use permit for Planned Parenthood clinic. Petitioners assert that the city wrongfully

exempted the permit from compliance with applicable state environmental impact law and regulations. After delaying Planned Parenthood from opening for two years, an adverse decision came down. Appeal filed May 2016.

**Diss v. Portland Public Schools** (Ore.)—Civil complaint for unlawful termination and religious discrimination. Bill Diss, a teacher at a Portland, Oregon

high school, had his teaching contract terminated following his request for a religious exemption to excuse his participation in a school program administered by Planned Parenthood. Following his request for accommodation, Diss was subjected to harassment and retaliation by school administrators throughout the school year, which culminated in the termination

THE EXHIBITS INCLUDED PROCUREMENT LOGS BY STEMEXPRESS EMPLOYEES WHO OBTAINED FETAL PARTS FROM ABORTION CLINICS, A LISTING OF DOLLAR AMOUNTS AWARDED TO EMPLOYEES AS BONUSES FOR VARIOUS ORGANS OBTAINED, AND INVOICES FOR FETAL BODY PARTS, INCLUDING BRAINS PRICED AT \$595 EACH AND 18 TO 19 WEEK “UPPER AND LOWER LIMBS WITH HANDS AND FEET,” PRICED AT \$890.



## PARTS PRICES:

<b>BRAIN:</b>	<b>\$595+</b>
<b>HEART:</b>	<b>\$595</b>
<b>UPPER LIMBS WITH HANDS</b>	<b>\$890</b>
<b>LOWER LIMBS WITH FEET</b>	<b>\$890</b>
<b>LIVER</b>	<b>\$595+</b>
<b>PANCREAS</b>	<b>\$595</b>

*\* Select Congressional Panel on Infant Lives, Exhibits showing payment for fetal body parts to procurement business. (Document sources [PDF] are available from [LLDF.org/lifeline](http://LLDF.org/lifeline).)*

*Price lists from wholesalers are in the form of service “fees” paid for acquiring baby body parts. Prices for unborn body parts reported in the past have been: An intact trunk, \$600; Eyes, \$75; Brain, \$999; Limbs, \$150 a pair; Spinal cord, \$325; Liver, \$150; Kidney, \$125; Spleen, \$75; Lungs & heart, \$150; Bone marrow, \$350; Skin, \$100; and on and on... Body parts wholesalers offer volume discounts and other incentives.*

(FRUITS OF EXPOSÉ, FROM PAGE 1)

The panel sent more than thirty letters requesting that information be supplied voluntarily before it issued any subpoenas. On February 16, the panel subpoenaed documents and communications concerning the procurement of fetal tissue from StemExpress, Southwestern Women’s Options, and the University of New Mexico.

On March 2, the Panel held a hearing on the use of fetal tissue in medical research. One of the witnesses admitted that she had lied to potential donors, telling them that fetal tissue had been used to find cures for various diseases. Several witnesses testified that fetal tissue is not necessary for medical research, but others disagreed, claiming that stem cells derived from fetal tissue are critical to developing cures and vaccines for diseases

such as Zika. Within two weeks of the hearing, scientists announced both a breakthrough in understanding how Zika affects the unborn child’s brain and also the development of a vaccine for Dengue fever, which is closely related to Zika—neither discovery used fetal tissue.

“There should be no resistance to letting all the facts come out—but some abortion supporters seem to be clearly rattled with basic facts coming to light. Therefore, in the interest of completing our investigation pursuant to H. Res. 461 [the legislation that established the Select Investigative Panel], we will continue to issue subpoenas when necessary to ensure information can be gathered in a timely fashion,” Rep. Blackburn said in a press release issued on March 30 in conjunction with twelve new subpoenas served to

StemExpress and related individuals, University of New Mexico and related individuals, BioMed IRB, and Ganogen.

On April 20, the Panel held another hearing, this time on the pricing of fetal tissue. The exhibits included procurement logs by StemExpress employees who obtained fetal parts from abortion clinics, a listing of dollar amounts awarded to employees as bonuses for various organs obtained, and invoices for fetal body parts, including brains priced at \$595 each and 18 to 19 week “upper and lower limbs with hands and feet” priced at \$890. Some pro-abortion witnesses at the hearing claimed that the evidence was insufficient and that it would be necessary for the Panel to examine StemExpress banking records to determine if they had illegally profited. “Now that their own witness has

testified about the need for StemExpress to provide us with information we have subpoenaed, hopefully Democrats will finally come to the table and work with us in a bipartisan fashion to encourage attorneys for StemExpress to comply with our requests,” Rep. Blackburn said. “Accounting documents don’t lie, and so far the evidence we’ve compiled shows that further investigation is warranted. Our task is to get all the facts, and it is my hope that all members of this investigative panel will work together in that effort.” On May 5, the panel subpoenaed two financial entities in an attempt to obtain StemExpress banking and accounting records.

Most recently, on June 1, the Select Investigative Panel submitted a complaint against StemExpress, Planned Parenthood, and other abortion providers, citing “serious and systematic violations of the HIPAA privacy rule” and requesting “a swift and full investigation by the Office of Civil Rights in the Department of Health and Human Services.” Evidence gathered by the Panel showed that Planned Parenthood systematically shared patients’ medical charts with StemExpress employees. StemExpress then used the information—age of the patient, gestational age of the baby, health of the mother and the baby—to decide which patients to approach and obtain consent to harvest the fetal tissue. The Panel has also urged the HHS office for Human Research Protections to investigate StemExpress for “fraudulently using invalid consent forms.” An earlier panel hearing highlighted evidence that Planned Parenthood’s consent forms incorrectly stated that fetal tissue had produced cures for a variety of diseases. According to the Panel’s evidence, StemExpress also misled its customers to believe it had a valid Institutional Review Board approval, a federal requirement for conducting research involving human subjects. **L**

## CASES TO WATCH

CONTINUED FROM PAGE 3

of his employment. Life Legal filed employment discrimination complaints with the Oregon Bureau of Labor and Industries and the Equal Employment Opportunity Commission. In September 2014, Life Legal also filed a civil action on Diss’ behalf, seeking monetary damages as well as reinstatement in his teaching position. Discovery is complete and the motions for summary judgment are being briefed.

### **People v. Garza / Garza v. Jackson Public School District** (Jackson, Miss.)

—Two young pro-life activists were arrested for distributing leaflets on a sidewalk in front of a high school and were charged with trespass, disturbing the peace, and interference with school buses. After criminal trial in which the court excluded video evidence exonerating them, they were found guilty on two of the three charges. Their request for a new trial has been pending for almost two years. Life Legal filed a federal civil rights suit filed seeking damages and injunctive relief. Following discovery, the court now has summary judgment motions under consideration.

**Planned Parenthood v. MMB Properties** (Kissimmee, Fla.)—Planned Parenthood purchased and occupied the property in Kissimmee in April of 2014. When it became clear that the office was going to become an abortion mill, a cardiology practice which also had an office at Oak Commons sued to enforce the restrictive covenant that forbade “outpatient surgical centers” at the site. Planned Parenthood lost when

the Fifth District Court of Appeals for the State of Florida upheld a trial court preliminary ruling that prohibited the abortion giant from running a baby-killing mill at its office in Kissimmee. Planned Parenthood appealed the decision by the Fifth District Court of Appeals to the Florida Supreme Court. Oral arguments are set for August 2016.

### **Whole Women’s Health v. Lakey**

(Tex.)—Abortion providers challenged Texas statutes requiring that abortion providers have admitting privileges at local hospitals and imposing building and safety requirements on abortion facilities. Life Legal joined Alliance Defending Freedom in filing an amicus brief in the Fifth Circuit, arguing that the law’s requirements are reasonable and constitutional. The brief points out that the alleged shortage of eligible abortion providers under the law is caused not by the strictures of the law but by the unwillingness of most doctors to provide abortions. The Fifth Circuit Court upheld the ambulatory surgical center standards and the admitting privileges requirement as to all but one clinic in Texas. The court found that the requirements advance Texas’ interests in safeguarding maternal health and protecting women from substandard abortion facilities and practices. The case was heard at the Supreme Court in March. Decision is expected shortly.

### **Little Sisters of the Poor v. Burwell**

(D.C.)—Life Legal filed an amicus brief with the U.S. Supreme Court on behalf of the Breast Cancer Prevention Institute in

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# LIFE FINDS A WAY

Alexandra Snyder, LLDF Executive Director



On April 1, two-year-old Israel Stinson had an asthma attack that landed him in the emergency room. The following day, while still in the hospital, he had another attack that resulted in a severe brain injury, leaving him on life support. Before Israel's parents could process what had happened, doctors were telling them their child could be brain dead.

My first contact with Jonee, Israel's mom, was at 11:00 pm the night of April 13. It was literally the eleventh hour, as the hospital told Jonee that Israel's life support would be withdrawn the following day. I met Jonee at the courthouse on April 14 to help her file a petition for a temporary court order to keep Israel on life support. We were able to get an immediate hearing with a judge, who had contacted three hospital attorneys and four physicians who participated in the hearing by phone.

It was at that meeting—in a courtroom, not at her son's bedside—that Jonee first learned from a hospital attorney that Israel had been declared brain dead. The physicians then told her that even if Israel remained on life support, he would soon

“deteriorate.” His organs would cease to function, his heart rate would decrease precipitously, and his body would shut down within 72 hours. Israel's parents knew Israel had suffered a grave injury and they were preparing themselves to say goodbye if his heart did stop beating. They were not, however, willing to hasten his death by removing him from the ventilator.

We were able to get a court order keeping Israel on life support for several weeks so they could get a second opinion and possibly transfer him to another hospital. To the amazement of his parents, Israel's condition remained stable. As trite as it sounds, I was reminded of the scene in *Jurassic Park* where Jeff Goldblum's character cautioned the scientists to

approach their research with humility because “Life finds a way.”

On April 25, I received a call from Israel's parents telling me that their son had started moving his head and upper body in response to their touch. His doctors dismissed these movements as “spinal reflexes” or “coincidences.” Indeed, I came across a study showing that as many as 39% of brain dead patients exhibit spinal reflex movements—but the study also found that all of the patients stopped moving within 72 hours of the brain death diagnosis.

We posted videos of Israel and soon received emails from doctors saying that his movements appeared “purposeful” and that Israel's head and upper body motions

were not consistent with brain death. Two neurologists, both of whom accept brain death in concept, said it was “deplorable” and “shocking” that Israel’s doctors were planning to remove him from life support.

Israel’s brain was damaged, to be sure, but he was not dead. Life had found a way.

On April 29, the court order expired.

We petitioned the federal court for a temporary restraining order to continue life support, as killing Israel violated his parents’ deeply-held belief that life does not end until the human heart stops beating. We also argued that the Emergency Medical Treatment and Labor Act (EMTALA) prohibited hospitals from abandoning patients. Finally, we argued that California’s brain death statute did not provide sufficient safeguards to protect patients from the arbitrary deprivation of the fundamental right to life under the Constitution’s Due Process Clause. The only recourse family members have to dispute a declaration of brain death is a lawsuit—a prohibitively expensive and time-consuming option in cases that are always urgent.

The federal court granted us a temporary order keeping Israel on life support for two additional weeks. Unfortunately, we were not able to convince the judge to compel the hospital to start feeding Israel, who had been without nutrition for over five weeks by that time.

Our next legal move was to appeal to the U.S. Court of Appeals for the Ninth Circuit. The family was granted another reprieve, allowing Israel a few more days on his ventilator while the court sorted through the legal issues. This was starting to feel like a death row case—except that this little boy had done nothing to deserve the death sentence hanging over his head.

As the case proceeded, I began learning about other cases involving similar brain injuries followed by declarations of brain death.

I received a call from a mother in Europe whose son faced the same diagnosis five

years ago. Like Israel, he was declared brain dead after an asthma attack resulted in lack of oxygen to his brain. This mother did not give up. She contacted the world’s leading neuroscientists and followed their coma arousal protocols. And two years later, her son woke up. He is now an active seven-year-old, just one year behind his peers in learning ability. He continues to astound medical professionals, who have no explanation for his recovery.

Two years ago, Joan Wensel was found blue and unresponsive by her husband. She had been without oxygen for many minutes—or longer—and was declared brain dead. Shortly before the hospital prepared to remove Joan’s life support, she woke up, with all her prior brain functions intact.

**ONLY GOD KNOWS WHAT ISRAEL'S TRUE PROGNOSIS IS. ALL WE KNOW FOR CERTAIN IS THAT HE HAS FAR OUTLIVED THE HOSPITAL'S ASSURANCE THAT HE WOULD BE DEAD IN EVERY SENSE OF THE WORD MANY WEEKS AGO. BY THEIR OWN ADMISSION, ISRAEL'S DOCTORS AND NURSES HAVE NEVER SEEN A PATIENT LIKE HIM.**

I was able to meet Jahi McMath’s mother, who reported that her “brain dead” daughter gives her a thumbs up when asked how she is doing and that she moves her limbs on command. At fifteen, Jahi is growing and her body manifests all the signs of entering puberty. Jahi is cared for at home in New Jersey.

Since I began working with Israel’s family, I have heard many stories like this of patients who—for whatever reason—confound medical experts by refusing to abide by the experts’ declarations of brain death.

Life found a way.

California’s brain death statute is over 30 years old and based on a definition of death promulgated nearly 50 years ago. Since then, scientists have discovered that the

human brain is much more complex and “plastic” than previously believed. Even severely damaged brains can develop new neurological pathways that aid in self-repair. Neuroscientist Gregoire Cortine has shown that even completely severed spinal cords develop new pathways that allow patients to regain movement.

Life finds a way.

I would have thought that sheer curiosity would lead them to want to treat Israel, or at least to provide basic nutrition, to see what could happen. But the hospital remained resolute. Israel would be kept on life support only as long as required by the court, but he would not be fed or provided with treatment for his brain injury.

It was clear that Israel and his family would have to leave the hospital to get care for their son before he starved to death in California. After much effort on the part of a phenomenal nationwide team of physicians, advocates, and other professionals, a hospital was located that agreed to accept Israel. The only catch was that it was outside the United States. The international transfer was arranged and Israel was transported by air ambulance to another hospital.

At the time of this writing, Israel has been receiving nutrition for nearly a week, after having been starved for six weeks. He is on a treatment protocol for brain injured patients. His new doctors—including a pediatric specialist and a neurologist—have thoroughly examined Israel and agree that he is *not* brain dead. His pupils are beginning to dilate in response to light and a recent EEG shows signs of brain activity. Israel is finally receiving the procedures he needs in order to be eligible for long-term care or home care. By the time you read this, he and his family should be back in the United States, God willing.

In the face of unimaginable challenges, life found a way.

“Jesus answered, ‘I am the way, and the truth, and the life.’” (John 14:6) **L**

# WHY EVERYONE SHOULD OPPOSE SURROGACY

Jennifer Roback Morse



I am an outspoken critic of gestational surrogacy, in which the gestational mother carries a child to term for another person or couple. I have noticed that many people do not understand the stakes in this issue. Pro-life people think, “gosh, surrogacy makes babies, how can that be bad?” Feminists think, “gosh, surrogacy allows people to meet their reproductive goals, how can that be bad?”

Read on. Surrogacy has something to offend everyone.

## Pro-life Reasons to Oppose Surrogacy

Every surrogacy procedure retrieves eggs and fertilizes them outside the body.

These are now tiny human beings. (That is why adults are willing to pay for them.)

- *Abortion*: If the doctor implants multiple eggs hoping some of them will survive, the surrogate is sometimes contractually required to do “selective reduction” and abort some of the babies.
- *Frozen Embryos*: If “extra” embryos are created and not implanted, they are frozen indefinitely, destroyed immediately or “donated” for research.
- *Eugenics*: Surrogates are sometimes

contractually required to abort babies that do not meet the specifications of the “commissioning parents.”

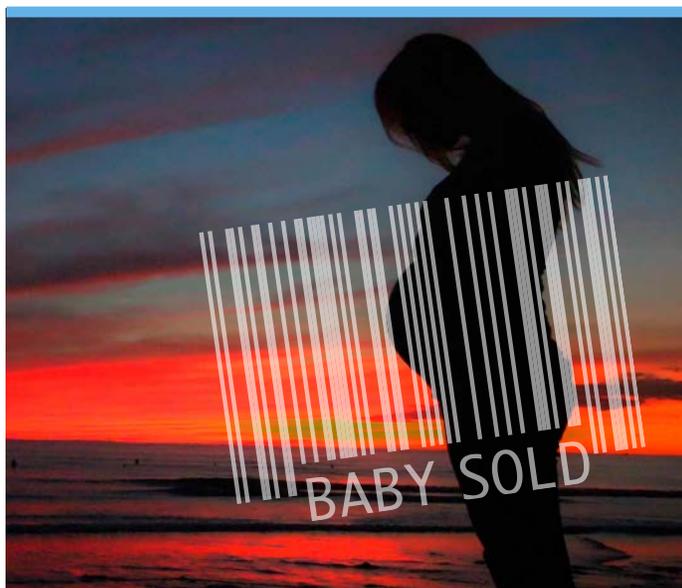
## Pro-woman Reasons to Oppose Surrogacy

- *Broken bonds*: The gestational mother’s bond to the child is treated as if it were important during the pregnancy, and completely irrelevant afterward.
- *Objectifying women*: The gestational mother is used for her womb and then is legally—and perhaps emotionally—set aside.
- *Fewer rights for the mother, compared to adoption*: If the gestational mother

grows attached to the child, as mothers often do, or if she has concerns about the “commissioning parents,” too bad. Mothers who agree to place a child for adoption can almost always change their minds after the baby has been placed in their arms. Denying gestational mothers the same right is, quite simply, inhuman.

## Pro-child Reasons to Oppose Surrogacy

- *Psychologically risky for babies*: Infants attach to their mothers in the womb. Will the infant’s attachment to the surrogate transfer over to the commissioning mother? We have no idea.



WHETHER YOU ARE PROGRESSIVE OR CONSERVATIVE, FEMINIST OR PRO-LIFE, STRAIGHT OR GAY, SURROGACY IS NOT THE ANSWER.

- *Medically risky for babies:* Babies conceived through In-Vitro Fertilization are at risk for premature birth, low birth weight, cerebral palsy and other problems. Surrogacy procedures require the use of IVF or similar techniques.
- *Risk of rejection for imperfection:* “Commissioning parents” have been known to abandon the child they commissioned due to birth defects, leaving the child with the surrogate mother in a legal limbo.

### Progressive Reasons to Oppose Surrogacy

- *Economically exploitative:* Surrogacy exploits poor women for the benefit of the rich, who can afford the use of surrogates to achieve their “reproductive goals.” See the second half of this video (<https://www.youtube.com/watch?v=GED9rYPkAlQ>), “Outsourcing Embryos,” about the surrogacy industry in India.
- *Introducing the profit motive into baby-making* (which should be about love): The surrogacy industry is estimated to be a \$30 billion business worldwide.
- *Rejected by progressive countries:* Surrogacy is illegal in many countries, including progressive countries like France and Finland. The European Parliament recently rejected a proposal to legalize surrogacy throughout Europe.

### Pro-liberty Reasons to Oppose Surrogacy

- *Reducing the private realm:* Surrogacy drags the law into baby-making, an arena that ordinarily takes place in the most private and intimate realm of love. Removing the sperm and egg from the body places those gametes in the realm of commerce and law. Surrogacy may involve as many as 5 separate individuals: egg donor, sperm donor, gestational carrier and one or more “commissioning parents.” The law must decide which of the adults shall be the

legal parents of the child. In natural conception, the law’s role is strictly limited to recording the natural parents of the child.

- *Artificial, state-created separations between parents and children:* The woman who carried a child for nine months has no legally recognized parental rights or responsibilities. The law makes egg and sperm donors into “legal strangers” to the child.

And the ultimate pro-liberty reason to oppose surrogacy:

- *Creating a market in human beings:* Allowing some people to buy other people, even if they are really young and small, is not a pro-liberty policy.

With all these disadvantages of surrogacy, we should look for other solutions to the problems that surrogacy is supposed to solve. We need natural solutions, such as NaPro Technology ([naprotechnology.com](http://naprotechnology.com)), for medical infertility. We need more love between men and women to solve the socially-caused infertility of being unable to find a suitable co-parent of the opposite sex.

Whether you are progressive or conservative, feminist or pro-life, straight or gay, surrogacy is not the answer.

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## CASES TO WATCH

CONTINUED FROM PAGE 5

support of the Little Sisters. The brief opposes the government’s mandate requiring employers to offer health insurance policies that include contraceptive and abortifacient drug coverage. The mandate applies even to non-profit religious organizations that are opposed to artificial contraception. Employers who fail to offer approved coverage are subject to crippling penalties. The Little Sisters of the Poor have been threatened with tens of millions of dollars in fines for refusing to purchase contraceptive coverage for their employees—yet they have stood firm and will not violate their religious beliefs by making available drugs and devices that cause early abortion and compromise women’s health. **Victory:** The Supreme Court sent the Little Sisters of the Poor case back to the lower courts to ensure that the religious liberties of non-profit organizations are protected while meeting the goals of the Affordable Care Act. Case pending.

**In re Kline** (Kan.)—Former Kansas Attorney General was accused by Planned Parenthood and pro-abortion public officials of violating state ethics rules while investigating Kansas abortion providers, resulting in the suspension of his license to practice law. On February 25, 2014, Kline’s attorneys filed a motion to dismiss what they are calling

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# LIFE LEGAL DEFENSE FOUNDATION AND FRIENDS SPEND AN EVENING WITH DAVID DALEIDEN

Anthony Wynne

“I HAVE BEEN TALKING TO THE EXECUTIVE DIRECTOR OF THE NATIONAL ABORTION FEDERATION. WE’RE TRYING TO FIGURE THIS OUT AS AN INDUSTRY, ABOUT HOW WE’RE GOING TO HANDLE REMUNERATION BECAUSE THE HEADLINES WOULD BE A DISASTER.”

—*Deb Vanderhei, National Director, Consortium of Abortion Providers, Feb. 2015*



Hosts Terry and Dee Thompson with David Daleiden, former Rep. Bill Baker and his wife, Joanne

As the country now knows, disaster has befallen America’s abortion industry in the person of David Daleiden. Last July, acting through his organization Center for Medical Progress (CMP), David began releasing a series of clandestinely recorded videos in which high level Planned Parenthood executives and administrators are seen and heard discussing the buying and selling of aborted baby body parts—a federal crime. The resulting publicity has indeed been a disaster for the abortion industry. The legal backlash against David and CMP has been swift and savage. Since the first lawsuit was filed, Life Legal

Defense Foundation has provided pro bono legal services to David.

On Friday evening, April 22, David spent a few hours visiting with an overflow crowd of Life Legal Defense Foundation supporters at the Crow Canyon Country Club in Danville, California. David gave his rapt audience a behind-the-scenes look into his investigative work, and explained how the baby body parts trafficking business is done in the U.S.

David began his comments by remarking on what he called “the cruel paradox” which lies at the heart of the baby body

parts trafficking issue:

“On the one hand, in our country the unborn child is not considered to be completely equal in its humanity to the rest of us so as to be completely protected by law. At the same time, it is precisely that humanity that is equal to and identical to our own that makes their body parts so valuable. Aborted baby parts are only valuable to sell and only valuable for experimentation precisely because they are human just like us.”

In the State of California, baby body



Life Legal President Paul Blewett, Chairman John Streett with David Daleiden, center

parts trafficking is usually a 3-party transaction. These parties are the supplier (an abortion clinic), the end-user (a researcher or pharmaceutical company) and the middleman (a tissue procurement organization, or TPO). David explained that an understanding of what the TPO actually does in the typical transaction (and what the abortion clinic does not do) is critical to an understanding of the illegality of the abortion industry's participation in these transactions. The TPO does virtually everything. The TPO technicians are responsible for every step of the body parts harvesting. They come to the clinic each morning with a list of orders for body parts to fill, they identify the patients, and they obtain written consent from the pregnant women (often using deceptive consent forms). They dissect the aborted babies, package the desired parts and take them to FedEx for shipment to the customer. So there is no question of reimbursement of costs incurred by the abortion clinic. The clinic typically incurs no significant costs in this process. The TPO's payments to the abortion clinics are pure profit.

David described the efforts made 15 years ago by Mark Crutcher of Life Dynamics to expose Planned Parenthood's practice of baby parts trafficking. In that pre-Twitter, pre-Facebook era, the mainstream media still dominated the news business, and they were able to shut down the story. Planned Parenthood's upper management went on national television to disavow and disclaim the practice, even though Mr. Crutcher's expose had focused on one of Planned Parenthood's own clinics. The story died.

**David pointed out that, from the beginning, he had wanted his project to be different. He wanted to target top level people at Planned Parenthood whose knowledge and influence in the organization would be indisputable, people who would unimpeachably reflect Planned Parenthood's institutional attitudes and mindset,** particularly regarding late term abortions and body parts harvesting. He did not want to interact with low-level staff whose information and admissions could later be disavowed by upper management. David's success in this regard is evident from the videos, most of which feature conversations with, and admissions from, top-level people at Planned Parenthood and elsewhere in the abortion industry.

During the Q & A period, David was asked to comment on statements from Planned Parenthood and sympathetic media outlets that the videos were "edited"—with the implication that they were deceptively or misleadingly edited. David cited this "but-they're-edited" argument as "an interesting study in how the Left uses language. By using the vague word 'edited' they insinuate that the videos are doctored. Then, as time goes by, they or their collaborators actually use the word 'doctored', and then the lie is repeated over and over again."

As David pointed out, the highlight videos are edited. Every news broadcast we watch—from CNN, ABC, CBS, or NBC—is edited. No one consumes raw media. In fact, CMP has been far more transparent

than are the mainstream media outlets: CMP made the unedited videos available to the public on its website. In any case, David further pointed out, however the videos were edited, the fact remains that there is no context in which discussing "crushing above" or "crushing below" on an unborn baby is acceptable. There is no context in which talking about "doing a little better than breaking even" on money received for baby parts is acceptable.

The issue of trafficking in baby body parts is not just a question about whether certain federal laws are being violated. As David said, the issue has broad implications for the entire abortion debate. Is it possible that after 40+ years of legalized abortion in this country a large segment of society has become inured to its intrinsic horror, but is somehow still capable of reacting with almost instinctive revulsion when the aborted babies' bodies are dissected and sold piece by piece? Apparently so, and federal law reflects these sensibilities.

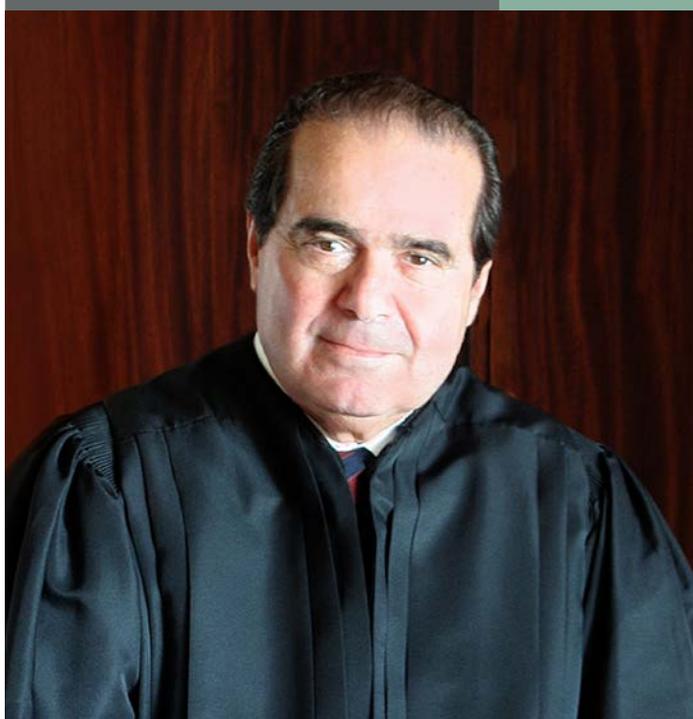
We have reason to hope and pray that the "cruel paradox" which David has so dramatically exposed and placed before the country and its lawmakers will bring home to them the truth that if the practice of selling baby body parts is a heinous one, the act of rendering living babies into body parts is an even more heinous one.

Thanks to David Daleiden, and to Life Legal Defense Foundation Board Member Terry Thompson and his wife Dee for planning, organizing and conducting our evening with David.

[Anthony Wynne has served on the board of directors of LLDLF since May, 1996.] **L**

# RIGHTEOUS JUDGMENT: REFLECTIONS ON THE DEATH OF ANTONIN SCALIA

Paul Blewett, LLDF President



The death of Supreme Court Justice Antonin Scalia on Feb. 13 overwhelmed the obituary industry, in part because the balance of the Court was at stake in replacing him, but also in part because he was a figure much larger than life's observers could ever convey. Scalia won praise from many who might be considered his ideological adversaries. His close friend, Ruth Bader Ginsburg, perceived as the staunchest liberal on the Court, said of Scalia: "He was a jurist of captivating brilliance and wit, with a rare talent to make even the most sober judge laugh." Leftist legal scholar Cass Sunstein said: "He was not only one of the most important justices in the nation's history; he was also among the greatest."

Praise of the fallen justice, however, was not universal. Jeffrey Toobin at *The New Yorker* insisted that Scalia "devoted his professional life to making the United States a less fair, less tolerant, and less admirable democracy." He excoriated Scalia for looking backward toward the Constitution rather than forward toward, well, whatever lay ahead. In this assessment, Supreme Court justices serve the nation as official fortunetellers and soothsayers—and, per Toobin, Scalia fell short in these functions. Worse, Paul Campos at *Salon* accused Scalia of outright protracted hypocrisy, calling him an "intellectual phony" and maintaining that the justice abandoned his principles of originalism, textualism, and judicial restraint in order to advance a political agenda.

The charge made by Campos is easily refuted by consulting Scalia's own opinions. His dissent in *Troxel v. Granville* is especially instructive here. A Washington State law allowed state courts to grant child visitation rights to any third party despite parental objection. The side of the cultural angels won out in this case: the Supreme Court struck down the offensive law. And Scalia agreed that the law was offensive. But he did not agree that the Court had the authority to strike it down. The syntax of his dissent demonstrates not only his precise command of the English language but also his adherence, in the face of his own preference for parental rights, to the ruling principles of originalism, textualism, and especially judicial restraint: "... I do not believe that the

power which the Constitution confers upon me as a judge entitles me to deny legal effect to laws that (in my view) infringe upon what is (in my view) that unenumerated right."

Why do noted Constitutional lawyers nonetheless persist in accusing Justice Scalia of intellectual dishonesty in his claim to be guided solely by the text of the Constitution?

Behind these accusations lies a profound distaste not only for Scalia's judicial principles but for his general sense of the world order. In the accounting of the outraged Left, Scalia was a horror of a judge because he was, gasp, a Roman Catholic!

Toobin betrays the bias underlying his criticism when he tells us that Scalia's

“revulsion toward homosexuality, a touchstone of his world view, appeared straight out of his sheltered, nineteen-forties boyhood.” But what Toobin hints at is openly expressed in an article that appeared in *Salon* eight months before the Scalia passed away.

In “Antonin Scalia is unfit to serve: a justice who rejects science and the law for religion is of unsound mind,” author and journalist Jeffrey Tayler takes off the atheist gloves and lays into Scalia for suffering from “faith-derangement syndrome (FDS).” One problem with the piece for the Catholic reader is that it comes off as comical: surely no serious journalist can mean all this stuff. The more vitriolic Tayler gets, the more laughable the effect. His anger at Scalia’s “derangement” so unhinges him that several times he has to catch his breath and return to the subject at hand. “Back to FDS and the Supreme Court . . .,” he writes at one point. “Back to Scalia . . .,” he says later. In the course of his surging tirade, he manages to suggest that Ben Carson (a Seventh-Day Adventist and pioneering neurosurgeon of international renown) needs further biology courses, that religious believers in general should deny themselves the benefits of modern medicine (many of which they themselves developed), that Roman Catholics are exactly the same as Protestant Fundamentalists (a hard sell to both parties), and, of course, that Antonin Scalia, who incidentally graduated *magna cum laude* from Harvard Law School, is unfit to serve on the U.S. Supreme Court. Tayler’s thesis would disqualify the majority of justices from the very earliest days of the nation? True, but that doesn’t matter, you obscurantist!

This bias against faith, and particularly the Catholic faith, is really what the legacy of Antonin Scalia is up against, and it is important to note that the fervor involved proceeds from a species of

psychological projection. Jeffrey Toobin condemns Scalia’s vision for America—even though Scalia never articulated any such controlling vision—because Scalia failed to serve Toobin’s vision. Paul Campos accuses Scalia of advancing his own political agenda because Scalia failed to promote the political preferences embraced by Paul Campos. Tayler, a desert prophet of atheism, howls his rage over what Scalia held sacred into the night air—because Scalia declined to flirt with what Tayler holds sacred. They all condemn Scalia for worshipping his own God because he refused to worship their gods—chiefly progressivism, or the urgent desire to hasten at all costs toward an undefined and undefinable goal. How dare a Supreme Court justice refuse to serve this shadowy deity?

In reality, of course, Scalia’s Catholic background gave him many of the tools he needed to become the exceptional justice he was. The intellectual tradition of Scholasticism taught him to make careful distinctions where lesser minds would figuratively throw up their hands and cry: “What’s the difference? It all comes to the same thing.” The Jesuit rhetorical tradition also helped to develop his literary style, alternately charming and biting.

But logic and rhetoric of a kind were available from other sources. What was distinctively Catholic in Scalia’s approach to his legal duties was the habit of self-criticism, born of humility, that a properly disposed Catholic brings to all his duties—a habit rooted in the practice of examining one’s conscience. Far from being the arrogant, self-satisfied autocrat of his enemies’ fantasies, Scalia was a remarkably level-headed and controlled adjudicator of cases that screamed, in both liberal and conservative minds, for activism to cut through the thicket of laws and precedents and arrive at a pre-determined conclusion. This kind



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of balance is so rare that it struck court-watchers as extreme. But balance it was, and the nation will be hard put to find anyone quite as able to supply it as Antonin Scalia.

[Paul Blewett joined Life Legal Defense Foundation as its president in Fall 2015.]



# DEATH AS SOCIOLOGICAL OPENS DOOR TO EVIL

Wesley J. Smith



**Maintaining the concept of “death” as a biological, rather than sociological, event is one of the few remaining impediments to exploiting the most weak and vulnerable among us as mere natural resources.**



If death can be “redefined”—an ongoing project in bioethics—to include the end of the subjective concept of being a “person,” then the unborn—supposedly, not yet persons—and those who through injury or illness have lost the ability to express personhood, can be deemed dead, or perhaps better stated, as good as dead.

This issue is discussed regularly above the public’s awareness in bioethics and medical journals. Every once in a while, I think it worth the time to bring some of this advocacy to a wider readership to alert my readers to what the elites in bioethics would like to impose upon us. From, “The Death of Human Beings,” by bioethicist N. Emmerich, in the medical journal, QVM:

When we say that someone has died, we do not merely mean that some biological entity no longer functions. We mean that they, some unique mind or person, understood as a cognitive phenomena or psychological entity, has ceased to exist. Despite being a non-biological term, personhood admits of the application of the terms life and death and, furthermore, reflects the ordinary meaning of the terms.

We should think very seriously about the consequences of changing death from the irreversible biological end of the integrated organism, to the subjective determination that personhood and relevant “capacities” have ceased.

It would mean that *clearly alive individuals could become exploitable—or used instrumentally—in the same way as we do biologically dead bodies now.*

That wouldn’t just mean live organ harvesting of persistently unconscious or minimally conscious patients—often proposed in organ transplant journals—but also *experiments conducted on their living bodies.*

Such uses could also be applied *on living fetuses, perhaps even, infants, who would be deemed not yet “alive” as human beings* because they haven’t yet attained the self-awareness deemed necessary for personhood, and hence, “earned” their equal moral value.

You think I exaggerate? Ponder the profound and adverse consequences of this:

A severely anencephalic neonate is a human organism that may be alive (or dead) in the sense of zoe. However, they will never have a life in the sense of bios. On the account offered by Schofield et al. life begins at conception. We should, therefore, distinguish between the commencement of biological or organismic life and the point at which the fetus becomes a subject, and not just an object, of life.

This does not mean the matter is easily settled; as with brain death, brain life remains a contested notion. Nevertheless such conceptual difficulties should not lead us to simply reject such notions. Rather, we might accept that situating an essentially metaphysical and philosophical conception of personhood in the empirical and practical context of biomedicine presents inherent epistemological challenges.

Changing death from biological to sociological would open the door to profound evil.

Illustrating how mainstream this subversive approach to human life and death has become among the medical/bioethics intelligentsia, this article was listed as the “editor’s choice.”

I explore these and other dangers of “personhood theory” much more deeply in my just released book: *Culture of Death: The Age of ‘Do Harm’ Medicine*.

[This article was originally published May 3, 2016, on NationalReview.com (<http://www.nationalreview.com/human-exceptionalism/434873/death-not-biological-opens-door-evil>) and is here re-published by the kind permission of the author.] 

## CASES TO WATCH

CONTINUED FROM PAGE 9

a “void” judgment on the basis that the Kansas Constitution explicitly requires at least four justices to concur for every decision. With only two justices left on the Court for Kline’s case after several justices recused themselves because of conflicts, Kline asserts that the composition of the post-recusal Court was unlawful and in explicit violation of the Kansas Constitution. It is unclear when the Court will decide that motion. Kline’s license is currently indefinitely suspended and will be reviewed by the Kansas Supreme Court in three years. October 2015 Kline filed “Complaint for Declaratory and Injunctive Relief” in the matter of *Kline v. Biles* seeks principally a ruling that the “discipline” meted out to Kline is void because of the unlawful composition of the court that ruled against him.

**Houston v. Daleiden et al.** (Tex.)—Grand jury indictment on charges of tampering with a governmental record and violating the Texas statute on Human organ trafficking. **Victory:** Harris County Texas Criminal Court Judge Diane Bull dismissed the first of two criminal charges against David Daleiden. The hearing on the felony charge of tampering with a government ID will be held on July 26.

**In re TKR\*** — A young woman (TKR) was placed in hospice care because she was unable to communicate after she suffered a heart attack. The hospice facility stopped feeding her in order to facilitate her death and she was without nutrition for over 9 days. During that time, she started talking and asked for something to eat. The hospice facility refused to feed her. A close friend of TKR contacted Life Legal. A Life Legal attorney filed a petition to have a new guardian appointed and to have TKR returned to the hospital, where she

is now receiving excellent care and treatment. **Victory:** This young woman would have been starved to death if it were not for the immediate efforts of Life Legal.

\*Real name withheld

**PAS challenge** (Calif.)—Proponents of physician-assisted suicide, unsuccessful for 20 years in passing legislation during regular sessions, took advantage of an abbreviated review process in an extraordinary legislative session called to address Medi-Cal funding shortfalls to advance their agenda. California Governor Jerry Brown signed the bill, making California the fourth state, and by far the largest state, to decriminalize physician-assisted suicide, permitting physicians to prescribe lethal drugs (so-called “aid-in-dying drugs”) to individuals believed to have a terminal disease. Life Legal filed a challenge in June 2016 on behalf of doctors asserting the constitutional rights of their sick and vulnerable patients to the full protection of the law enjoyed by other Californians.

### CASES RESOLVED:

**Baby Israel v. Kaiser Hospital** (Calif.)—(See p. 6 for update.)

**Los Angeles v. Dwight Monagan** (Calif.)—Pro-lifer arrested for picketing at abortion mill. Charges dismissed. 

To view all LLDF cases:

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**Wanted:** LLDF is receiving calls from people whose loved ones are being denied necessary medical treatment. We need local attorneys to assist us in these matters. LLDF is currently compiling model briefs, petitions and other forms for use in these cases.

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## RECENT UPDATES

As We Go To Press

- **David Daleiden Vindicated**  
Houston Judge Dismisses Bogus Criminal Charge Against Pro-Life Investigator (page 2)
- **Life Legal Challenges Physician Assisted Suicide Law**  
> [StopMedicalMurder.org](http://StopMedicalMurder.org)



Center for Medical Progress, David Daleiden