

EXHIBIT D

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16 **UNITED STATES DISTRICT COURT**
17 **CENTRAL DISTRICT OF CALIFORNIA**
18 **SOUTHERN DIVISION**

19 **NORTHLAND FAMILY**
20 **PLANNING CLINIC, INC.,**

21 Plaintiff,

22 vs.

23 **CENTER FOR BIO-ETHICAL**
24 **REFORM, et al.,**

25 Defendants.

Case No.: 8:11-cv-00731-JVS-AN

DEFENDANT REEL TO REAL
MINISTRIES, INC. (D/B/A THE
APOLOGETICS GROUP)’S
AMENDED ANSWERS TO
PLAINTIFF’S FIRST SET OF
INTERROGATORIES

Pursuant to Fed. R. Civ. P. 33, Defendant Reel to Real Ministries, Inc. (d/b/a The Apologetics Group) (hereinafter “TAG”) hereby amends its responses

1 request or other requests. TAG reserves all objections to the admissibility of any
2 response set forth herein, including, without limitation, objections of relevance
3 and materiality. In addition, TAG expressly reserves both the right to object to
4 further discovery and to the subject matter of Plaintiff's Interrogatories.

5 All of the following responses are provided subject to the foregoing
6 objections and to the following specific objections.

7 **RESPONSES**

8 **INTERROGATORY NO. 1:**

9 Identify each time any of the Infringing Videos was posted, provided, or
10 distributed, with or without charge, including but not limited to the identity of the
11 person(s) or entities to which the video was provided or distributed, the website
12 on which the video was posted, and any consideration received for the video.

13 **ANSWER:**

14 Subject to the objections, the following is provided. In early January 2011,
15 Defendant Eric Holmberg spent about an hour, maybe two, capturing Northland's
16 video, editing it down to the segments that were most pertinent to the "goodness"
17 narrative TAG wanted to parody, and then edited in some stock abortion footage
18 he had received from CBR and some explanatory words at the end ("Northland
19 Family Planning Center, 1-800-447-7354" over a picture of the body parts of an
20 in-utero baby murdered at 10-12 weeks, with "Your Dead baby at 10 to 12
21 weeks"—knowing that this age range is when the majority of abortions take
22 place). Defendant Holmberg then compressed the video to a 3 MPS WMV file
23 and uploaded it as a private video on his main YouTube channel. Therefore, no
24 one could see the TAG Video unless Defendant Holmberg sent them the URL.
25 Defendant Holmberg sent the URL to Gregg Cunningham, and upon information

1 and belief, the link may have been sent to a few other personal email addresses.
2 Other than an email that failed to be delivered to rgrayson@stone-table.com,
3 TAG does not know for certain who else may have received the link or whether
4 the link was still live on the private side of the YouTube channel when it was
5 received. Nonetheless, the TAG Video was never seen by the general YouTube
6 audience. The video remained private until YouTube took it down, which was
7 almost immediately. About a month or two later, Defendant Holmberg learned of
8 the video (“The Most Shocking (Graphic Imagery), Four-Minute Abortion Debate
9 You Will Ever See”) that was posted on AbortionNo.org and the Pro-LifeTube
10 channel. The video that CBR produced was based on CBR’s own edits, music,
11 and images. Neither TAG nor Defendant Holmberg had anything to do with the
12 actual creation, production, posting, or distribution of any of the CBR videos.

13 **INTERROGATORY NO. 2:**

14 Describe with particularity any attempt to market or promote any of the
15 Infringing Videos.

16 **ANSWER:**

17 Subject to the objections, the following is provided. None, other than
18 simply referring the idea/concept of the video to Gregg Cunningham.

19 **INTERROGATORY NO. 3:**

20 Describe in detail all facts related to the creation of each of the Infringing
21 Videos, including but not limited to, when the idea to create the video occurred,
22 all person(s) or entities that were involved, when the video was produced, the cost
23 of producing the Infringing Videos, and the origin of all video and audio elements
24 of the Infringing Videos.

1 **ANSWER:**

2 Subject to the objections, the following is provided. See the answer to
3 Interrogatory No. 1 above. Defendant Holmberg created the TAG Video and
4 used no elements other than segments from the Northland Video and stock
5 abortion footage he had previously received from CBR. There were no costs
6 involved.

7 **INTERROGATORY NO. 4:**

8 Identify each time any of the Infringing Videos was removed from a
9 website, including but not limited to the date of removal, the reason(s) the
10 video(s) were removed, and all person(s) or entities involved in the removal of
11 the Infringing Videos.

12 **ANSWER:**

13 Subject to the objections, the following is provided. See the answer to
14 Interrogatory No. 1 above. The video created by Defendant Holmberg was
15 posted just once—as a private video on a private YouTube channel. Defendant
16 Holmberg cannot recall the exact date it was posted, but upon information and
17 belief, TAG believes it was posted on or about January 6, 2011, and after it was
18 removed by YouTube (less than 24 hours after it was posted), he deleted it from
19 the Video Manager.

20 **INTERROGATORY NO. 5:**

21 Describe with particularity any purported creative, transformative, critical,
22 commentary, journalistic, educational, scholarly, or political purpose behind the
23 Infringing Videos, including but not limited to any discussions or
24 communications, oral, written, or otherwise, that relate to said purpose.
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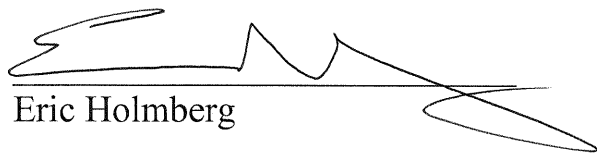
ANSWER:

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2 Subject to the objections, the following is provided. The TAG Video at
3 issue here tells a story with pictures and other visual imagery that points out the
4 inconsistencies, hypocrisies, and even the lies of the Northland Video. The TAG
5 Video makes “fair use” of portions of the Northland Video in that it transforms
6 the Northland Video by adding graphic images of aborted fetuses to certain parts
7 of the Northland Video so as to criticize, comment upon, disparage, parody, and
8 disagree with the specific message conveyed by the Northland Video. The TAG
9 Video was produced for nonprofit, non-commercial, and educational purposes.
10 The TAG Video also criticizes, comments upon, disparages, parodies, mocks, and
11 disagrees with both the deceptive message and the deceptive manner of Plaintiff’s
12 staffer who narrates the Northland Video. Plaintiff’s consistent theme is the lie
13 that abortion is “normal” and causes no harm, and further Plaintiff misrepresents
14 to young, vulnerable women that “when a woman decides to have an abortion,
15 she is making a choice that is thoughtful, considered, and essentially coming from
16 a place of goodness.” Every aspect of the staffer’s attire, demeanor, syntax, and
17 intonation is calculated to reinforce the deception. The same is true with the
18 flowers on her desk, the soft background music, and the framed art on her walls.
19 The TAG Video comments upon, criticizes, critiques, disparages, parodies,
20 mocks, and rebuts all this duplicity. See also a copy of the video that was
21 previously provided. There were no discussions or communications, oral,
22 written, or otherwise, that relate to this purpose. This purpose is obvious from
23 just viewing the TAG Video.
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I declare (or certify, verify, or state) under penalty of perjury that the foregoing answers are true and correct to the best of my knowledge, information, and belief.

Executed on the 25th day of January, 2012.



Eric Holmberg