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## First Round Victory: Lawsuit to Proceed against SUNY-Buffalo Officials for Permitting Protestors to Disrupt Anti-Abortion Display

Buffalo, New York (October 2, 2013) — Late yesterday, U.S. Magistrate Judge Hugh B. Scott issued his "report and recommendation," recommending that the civil rights lawsuit filed by the American Freedom Law Center (AFLC) against several officials from the State University of New York at Buffalo (SUNY-Buffalo) for permitting an unruly mob of protestors to purposely disrupt a peaceful, anti-abortion demonstration on the university's campus proceed to discovery. In his report, the federal judge recommended denying the motion to dismiss filed by the SUNY-Buffalo officials, who argued that the lawsuit failed to state a constitutional violation.

The case was filed by AFLC, a national, nonprofit Judeo-Christian law firm, in the United States District Court for the Western District of New York on behalf of the Center for Bio-Ethical Reform, Inc. (CBR), a California-based, pro-life organization; Gregg Cunningham, the executive director of CBR; Darius Hardwick, an employee of CBR; BU Students for Life; and two student officers of the pro-life student organization.

For two days beginning on April 15, 2013, CBR partnered with the SUNY-Buffalo chapter of Students for Life to bring CBR's Genocide Awareness Project (GAP) to the university campus. GAP is a traveling photo-mural exhibit that compares abortion to historically recognized forms of genocide, such as the Holocaust.

CBR and the student organization followed the university's procedures to reserve a prime location outside of the Student Union for the anti-abortion display. The request was initially met with resistance from university officials. However, the organizers pointed out that this location had been reserved in the past for student speech activity; therefore, to deny access to this forum

for the anti-abortion display would violate the First Amendment. The officials reluctantly approved the request.

During the actual GAP display, however, university officials permitted protestors to purposely block the graphic, anti-abortion images. At times, the student protestors would use umbrellas and bed sheets to accomplish their task. When the organizers of the event requested assistance from the university police, including its chief of police, they refused, thus prompting this lawsuit.

In his report, the federal judge concluded that AFLC had set forth sufficient factual allegations to demonstrate a violation of the First Amendment, stating: "Plaintiffs thus have pled that what defendants did or allowed equated to a denial of the use of the reserved area, since their message was obstructed as much as if defendants had forbidden the GAP exhibit outright."

With regard to AFLC's equal protection claim, the judge stated, in relevant part: "By the end of the GAP exhibit . . . one group successfully expressed its speech to the detriment of the other group's speech, consistent with defendants' reluctance all along to let the GAP exhibit happen" in violation of the Equal Protection Clause.

Robert Muise, AFLC Co-Founder and Senior Counsel, commented: "Government officials have an affirmative duty to protect a private citizen's right to peacefully engage in free speech, particularly when he or she is doing so pursuant to a permit. Here, SUNY-Buffalo officials grossly breached that duty in violation of the U.S. Constitution. And while the judge's report and recommendation is a first round victory, we are confident that we can prove the factual allegations in the lawsuit to ensure an ultimate and final victory."

David Yerushalmi, AFLC Co-Founder and Senior Counsel, added: "Instead of fostering the free exchange of ideas in the 'marketplace of ideas' that is a university campus, SUNY-Buffalo officials legitimized and encouraged its students to respond to political speech they don't like with censorship and the denial of free speech. This is very much the tactic of Alinskyite progressives, who would rather violate the Constitution by denying speech that is contrary to the established 'liberal orthodoxy.'"

AFLC is asking the court to declare that university officials violated their clients' fundamental constitutional rights, to permanently enjoin the officials from permitting protestors to disrupt and silence future anti-abortion speech activities on campus, and to award nominal damages.

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