Case No. 16-2325

IN THE

United States Court of Appeals for the Fourth Circuit

Greater Baltimore Center for Pregnancy Concerns, Inc.,
Plaintiff-Appellee,

v.

Mayor and City Council of Baltimore, *et al.*
Defendants-Appellants.

On appeal from the United States District Court
for the District of Maryland

BRIEF OF *AMICI CURIAE* NATIONAL INSTITUTE OF FAMILY AND LIFE ADVOCATES AND HEARTBEAT INTERNATIONAL

Kevin H. Theriot
Counsel of Record
Elissa M. Graves
Alliance Defending Freedom
15100 N. 90th St.
Scottsdale, AZ 85260
(480) 444-0020
(480) 444-0028 (fax)

David A. Cortman
Alliance Defending Freedom
1000 Hurricane Shoals Rd. NE
Suite D-1100 30040
Lawrenceville, GA
(770) 339-0074
(770) 339-6744 (fax)

Attorneys for Amici Curiae

CORPORATE DISCLOSURE STATEMENT

Pursuant to Fed. R. App. P. 29(c)(1), the National Institute of Family and Life Advocates states that it is a nonprofit 501(c)(3) corporation, that it has no parent corporation, and that it does not issue stock.

Heartbeat International states that it is a nonprofit 501(c)(3) corporation, that it has no parent corporation, and that it does not issue stock.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases:

Statutes:

INTEREST OF AMICI

The National Institute of Family Advocates ("NIFLA") is a non-profit membership organization which provides life-affirming pregnancy centers with legal counsel, education, and training. NIFLA represents over 1,400 member pro-life pregnancy centers across the country. Heartbeat International is a non-profit membership organization which provides pro-life pregnancy centers with education, training, and support. Heartbeat currently has approximately 2,100 affiliate pregnancy centers worldwide. Heartbeat additionally operates Option Line, a 24-hour contact center and website designed to assist women vulnerable to abortion. Both NIFLA and Heartbeat International provide their services in advance of their pro-life moral and religious beliefs. Because the Baltimore Ordinance restricts the speech of pregnancy centers, including affiliates of *amici*, the proper resolution of this case is of great concern to NIFLA and Heartbeat International, as well as its affiliate members.[1]

BACKGROUND

Baltimore Ordinance 09-252 requires "Limited-Service Pregnancy Centers" to post a sign in the "waiting room or other area where individuals await service . . .

[1] Counsel for both parties have consented to the filing of this brief. No counsel for a party authored the brief in whole or in part; no party or party's counsel contributed money to fund preparing or submitting the brief; and no person other than the amici curiae or their counsel contributed money intended to fund preparing or submitting the brief.

substantially to the effect that the center does not provide or make referral for abortion or birth control services." *See* City of Baltimore Ordinance 09-252. The Ordinance defines "Limited Service Pregnancy Center" as any organization:

> (1) whose primary purpose is to provide pregnancy-related services; and
> (2) who:
> (I) for a fee or as a free service, provides information about pregnancy-related services; but
> (II) does not provide or refer for:
> (A) abortions; or
> (B) nondirective and comprehensive birth-control services.

Id.

Greater Baltimore Center for Pregnancy Concerns brought a legal challenge against the Baltimore Ordinance, claiming that the Ordinance violated the First and Fourteenth Amendments to the United States Constitution, as well as Maryland law. In 2011, the District of Maryland granted summary judgment in favor of the Plaintiffs, s*ee O'Brien v. Mayor & City Council of Baltimore*, 768 F. Supp. 2d 804 (D. Md. 2011), and this Court vacated and remanded for further proceedings, *Greater Baltimore Center for Pregnancy Concerns, Inc. v. Mayor & City Council of Baltimor*e, 721 F.3d 264 (4th Cir 2013). Following discovery, the District of Maryland again granted summary judgment in favor of Plaintiffs, holding that the Baltimore Ordinance was unconstitutional. *Greater Baltimore Center for Pregnancy Concerns v. Mayor & City Council of Baltimore*, No. 1:10-cv-00760-MJG, Dkt.

#118 (D. Md. Oct. 4, 2016). The City thereafter appealed the decision of the District Court to this Court. *Amici* urge this Court to affirm the District Court's decision.

ARGUMENT

Defendants in this case–as well as government entities defending similar laws across the country–continually urge the application of a lower standard of scrutiny to speech regulations such as the Baltimore Ordinance pursuant to the commercial speech or, in the alternative, the professional speech doctrine. Neither of these doctrines is applicable to the speech of pregnancy centers.

The District Court held that the Baltimore Ordinance was a content-based compelled speech regulation, and therefore subject to strict scrutiny. It explicitly rejected the application of both the commercial and professional speech doctrines. *Greater Baltimore Center for Pregnancy Concerns*, No. 1:10-cv-00760-MJG, Dkt. #118, at 37. This Court should affirm the District Court's application of strict scrutiny, and reject the application of both the commercial and professional speech doctrines.

II. THE BALTIMORE ORDINANCE IS NOT A REGULATION OF COMMERCIAL SPEECH.

a. The speech regulated by the Baltimore Ordinance is not commercial.

This is not a commercial speech case. The Supreme Court defines commercial speech as that which does no more than "propose a commercial transaction," or that

"relates solely to the economic interests of the speaker and its audience." *Bd. of Trustees of State Univ. of N.Y. v. Fox*, 492 U.S. 469, 482 (1989); *Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm'n*, 447 U.S. 557, 561–62 (1980).

The Baltimore Ordinance contains no element that regulated centers are only those proposing commercial transactions, nor does it only impose disclosures in contexts related solely to their economic interests. Moreover, pregnancy centers themselves lack those commercial elements, both in general and in the context where the disclosures occur. Pregnancy centers are non-profit groups, engaged in expressive advocacy, and they provide their speech and services free of charge. They are not in any way commercial. As the District Court noted with regard to appellee Greater Baltimore Center for Pregnancy Concerns "[t]he Center and its staff and volunteers have no economic interest in their actions or speech with clients, nor does the Center propose any commercial transactions with clients. The Center's motivation is deeply spiritual and religious. All services at the Center are provided free of charge." *Greater Baltimore Center for Pregnancy Concerns*, No. 1:10-cv-00760-MJG, Dkt. #118 at 14 (D. Md. Oct. 4, 2016) (internal citations and quotations omitted). The commercial speech doctrine therefore does not apply to the speech of pro-life pregnancy centers, who provide their services free of charge and without any economic interest, in advance of their pro-life religious and moral beliefs.

Other courts confronting this issue have held that laws regulating pregnancy centers such as appellee are not commercial in nature. In *Centro Tepeyac v. Montgomery County*, the court held that a disclosure law similar to the Act did not regulate commercial speech because the pregnancy center there was "motivated by social concerns" rather than profit, and its speech "does not propose a commercial transaction." 779 F. Supp. 2d 456, 463–64 (D. Md. 2012) (internal citations and quotations omitted), *aff'd* 722 F.3d 184 (4th Cir. 2011). The District Court reached a similar conclusion in *Evergreen Ass'n, Inc. v. City of New York*, 801 F. Supp. 2d 197, 205 (S.D.N.Y. 2011), *aff'd in part and rev'd in part on other grounds*, 740 F.3d 233 (2d Cir. 2014). This Court actually affirmed the preliminary injunction granted in *Centro Tepeyac*, 779 F. Supp. 2d at 463–64, where the court had concluded that the center and the ordinance were not commercial. After discovery, the District Court in *Centro Tepeyac* enjoined the entire statute there—including the disclosure of non-licensed status—and said it was not a commercial regulation. *Centro Tepeyac v. Montgomery Cnty.*, 5 F. Supp. 3d 745, 759–60 (D. Md. 2014).

In *Riley v. National Federation. of the Blind of N.C., Inc.*, 487 U.S. 796 (1988), the Supreme Court declared that even when a non-profit charitable organization solicits money, it is still not engaged in commercial speech. The Baltimore Ordinance is not focused on, or applicable at all, to solicitation or receipt of funds. Instead, it imposes disclosures outside of any context of a commercial

transaction or economic interest. Pregnancy centers have no economic interest in offering their speech and services, but instead offer their services in support of their pro-life viewpoint and mission.

The fact that pregnancy centers offer services of value does not transform their speech into commercial speech. Indeed, "an organization does not propose a 'commercial transaction' simply by offering a good or service that has economic value." *Evergreen Ass'n*, 801 F. Supp. 2d at 205; *see also Bolger v. Youngs Drug Prods. Corp.*, 463 U.S. 60, 67 (1983) (explaining that even "[r]eference to a specific product does not by itself render" speech "commercial"). As the Supreme Court has explained, commercial speech "cannot simply be speech on a commercial subject." *Virginia State Bd. of Pharmacy v. Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748, 761 (1976).

The Supreme Court requires a compelling governmental interest for the regulation of commercial speech if it is non-profit, advocacy-based, and pro-bono. In *In re Primus*, 436 U.S. 412 (1978), the Court held that the offering of free legal services did not constitute commercial speech where the services were offered for the purpose of the "advancement of [the attorney's] beliefs and ideas" rather than for commercial gain. *Id.* at 437–38 & n. 32. The Court required the government to show a "compelling" interest and "close" tailoring. *Id.* at 432; *see also id.* at 433–39 (striking down the speech law for failing to prove actual harm by the regulated).

Under *Fox* and *Central Hudson*, the proper commercial speech inquiry is not whether services have value, but whether there actually is a commercial purpose or sole economic interest for a transaction. *See also Evergreen*, 801 F. Supp. 2d at 205. Pregnancy centers' pro-life pregnancy speech and services are for the advancement of religious, moral, and social values—and are offered for free.

First Resort v. Herrera, 80 F. Supp. 3d 1043 (N.D. Cal. 2015), which dealt with the regulation of pregnancy center speech, is not applicable here (*First Resort* is currently on appeal to the Ninth Circuit. *See* No. 15-15434 (9th Cir. filed Mar. 10, 2015)). First, the ordinance in *First Resort* is vastly different than the Baltimore Ordinance. It does not impose prophylactic disclosures; it "prohibits the use of false or misleading advertising." *Id*. at 1047. The Ordinance, in contrast, claims to ameliorate deceptive advertising but applies its disclosures to centers that are not engaged in any false statements, because making such statements is not an element of being regulated under the Baltimore Ordinance.

First Resort is also distinct due to centrally relying on another inapplicable case, *Fargo Women's Health Center v. Larson*, 381 N.W. 2d 176 (N.D. 1986). There, a particular pregnancy center had been found to have engaged in false advertising, and "the trial court's order was narrowly drawn [to] focus[] only upon the prohibition of deceptive or misleading activity." *Id.* at 179. Moreover, in *Fargo* the advertisements were for compensated services. *See id.* at 180 ("the Help clinic

advertisements expressly state that financial assistance is available and that major credit cards are accepted"). Thus, *Fargo* regulated commercial advertisements, but only those advertisements, by a center already found to have spoken falsely. The Baltimore Ordinance does neither. To the extent that *First Resort* means that if a non-profit center offers only free services, it is converted into a "commercial" speaker merely by "advertising" its free services truthfully, *First Resort* cannot be reconciled with the definition of commercial speech in *Fox* and *Central Hudson*.

b. Even if the Baltimore Ordinance were found to regulate commercial speech, it would still fail constitutional scrutiny.

In addition to the fact that the speech of appellees and similar pregnancy centers are *not* commercial speech, the Baltimore Ordinance would still fail regardless. Regulations of commercial speech must still "directly advance[] the governmental interest asserted" and must not be "more extensive than is necessary to serve that interest." *Central Hudson*, 447 U.S. at 566. To pass the test, the government has the burden of demonstrating that the law advances the governmental interest "in a direct and material way." *Edenfield v. Fane*, 507 U.S. 761, 767 (1993); *see also Rubin v. Coors Brewing Co.*, 514 U.S. 476, 487 (1995) (deeming this requirement "critical"). Here, the Baltimore Ordinance does *absolutely nothing* to outlaw the alleged false statements that Defendants suggest pregnancy centers engage proclaim. Instead, the Baltimore Ordinance identifies a broad class of pro-life speakers, and imposes sign requirements designed to undermine their speech

regardless of the whether or not that pregnancy center has engaged in, or even been accused of engaging in, misleading speech or wrongdoing of any kind. Thus, the law neither directly advances a governmental interest in supposedly truthful speech about abortion, nor is it tailored to do anything of the sort. It is therefore invalid even as a regulation of commercial speech. *See Rubin,* 514 U.S. 476.

The commercial speech doctrine therefore does not apply to the speech of appellee or similar pro-life pregnancy centers.

II. THE PROFESSIONAL SPEECH DOCTRINE DOES NOT APPLY.

a. The Baltimore Ordinance does not regulate professional speech.

The City alternatively argues for the application of a lower standard of scrutiny on the basis that the Baltimore Ordinance regulates professional speech. While some neutral regulations of professional speech may be subject to lesser First Amendment scrutiny, regulations targeted at suppressing particular ideas are subject to strict scrutiny. The Baltimore Ordinance improperly restricts the speech of pro-life pregnancy centers by forcing them to bear the government's message simply because they offer pro-life pregnancy services. Regardless of the label given to the speech at issue here, the relevant question is "whether the Government may prohibit what plaintiffs want to do—provide [pregnancy-related services] in the form of speech." *Holder v. Humanitarian Law Project*, 561 U.S. 1, 28 (2010).

The constitutionality of a government ban on "expression simply because it disagrees with its message[] is not dependent on the particular mode in which one chooses to express an idea." *Texas v. Johnson*, 491 U.S. 397, 416 (1989). The First Amendment applies in full force to the speech at issue in this case. *See Legal Servs. Corp. v. Velazquez*, 531 U.S. 533, 547 (2001) (recognizing that the First Amendment cannot "be reduced to a simple semantic exercise"); *NAACP v. Button*, 371 U.S. 415, 429 (1963) (establishing that "a State cannot foreclose the exercise of constitutional rights by mere labels").

The professional speech doctrine was originally articulated by Justice White in his concurring opinion in *Lowe v. S.E.C.*, 472 U.S. 181, 232 (1985). This Court has recognized the doctrine in some professional contexts. *See Stuart v. Camnitz*, 774 F.3d 238, 248 (4th Cir. 2014) (applying a "sliding scale" model of scrutiny to a regulation of professional speech). "When the First Amendment rights of a professional are at stake, the stringency of reviewing thus slides along a continuum from public dialogue on one end to regulation of professional conduct on the other." *Id*. As the Eleventh Circuit recently noted, "[t]he Supreme Court has never adopted or applied Justice White's rational basis standard to regulations which limit the speech of professionals based on content." *Wollschlaeger v. Governor of Florida*, 848 F.3d 1293, 1310 (11th Cir. 2017). The parameters of the doctrine have therefore been left largely to the Courts of Appeals.

The Baltimore Ordinance is not a regulation of any profession, but a prophylactic restriction on speech based solely on the fact that a pregnancy center provides services to advance its pro-life viewpoint. The Ordinance is applicable only in the context of pro-life pregnancy centers providing their services to women in need, free of charge, without regard to the profession in which one is engaged. It is not a regulation of the medical profession, as it is not imposed any requirements on only medical professionals, but instead broadly applies its compelled speech to pro-life pregnancy centers only. Pregnancy centers engage in pro-life speech in the context of the public issue of abortion, and offer their services in furtherance of their pro-life religious and moral worldview.

This Court has held that "the relevant inquiry to determine whether to apply the professional speech doctrine" is based on "whether the speaker is providing personalized advice in a private setting to a *paying* client or instead engages in public discussion and commentary. Professional speech analysis applies in the former context . . . but not in the latter." *Moore-King v. Cty. of Chesterfield*, 708 F.3d 560, 569 (4th Cir. 2013) (emphasis added). As the District Court noted, "[w]hen courts have held that the professional speech exception applies, the facts almost always involve the context of a professional's relationship with a paying client." *Greater Baltimore Center for Pregnancy Concerns*, No. 1:10-cv-00760, Dkt. #118, at 34 (D. Md. Oct. 4, 2016) (emphasis in original). The relevant facts to consider in

determining whether or not the professional speech doctrine applies include "the regulatory context, the nature of the professional relationship, the degree of intrusion into it, the reasons for the intrusion and evidentiary support for the intrusion, and the connection between the compelled speech and the government's interests." *Stuart v. Loomis*, 992 F. Supp. 2d 585, 600–01 (M.D. N.C. 2014), *aff'd Stuart v. Camnitz*, 774 F.3d 238 (4th Cir. 2014) (citing *Riley*, 487 U.S. at 796).

Notably, pregnancy centers offer their services free of charge, in an act of service to women and children in need of assistance. Their speech takes place in the context of a controversial public debate concerning abortion, and is a form of advocacy. The Ordinance does not purport to regulate a "profession," but is instead a prophylactic speech restriction that applies across the board to pregnancy centers. As the District Court noted, pregnancy centers have "a moral and religious pro-life mission instead of a medical or professional one." *Greater Baltimore Center for Pregnancy Concerns*, No. 1:10-cv-00760-MJG, Dkt. #118 at 34 (D. Md. Oct. 4, 2016). The professional speech doctrine is therefore not applicable to the speech of pro-life pregnancy centers.

b. Even if the Baltimore Ordinance regulated professional speech, strict scrutiny would be applicable.

Furthermore, in addition to the Ordinance not being regulation of professional speech, strict scrutiny would be warranted regardless. Speech by medical professionals to clients about controversial issues such as abortion "may be entitled

to 'the strongest protection our Constitution has to offer.'" *See Conant v. Walters*, 309 F.3d 629, 637 (9th Cir. 2002) (quoting *Florida Bar v. Went-For-It, Inc.*, 515 U.S. 618, 634 (1995)). "[I]ndividuals [do not] simply abandon their First Amendment rights when they commence practicing a profession." *Stuart*, 774 F.3d at 247. If the speech of pregnancy centers was found to be "professional speech," it would properly within the "public dialogue" of the continuum in *Stuart*, and therefore subject to strict scrutiny. *Id*. at 248.

The Supreme Court has applied strict scrutiny to other regulations of professional speech that are content or viewpoint based. *See Legal Servs. Corp.*, 531 U.S. at 553 (Scalia, J., dissenting) (noting the majority applied "strict scrutiny" to a restriction on lawyers' speech challenging welfare laws); *NAACP*, 371 U.S. at 438 (applying the "compelling state interest" test to a ban on soliciting certain legal business by a non-profit); *see also Sorrell v. IMS Health Inc.*, 564 U.S. 552, 565 (2011) (indicating at the outset that "strict scrutiny applie[d]" to a state restriction on pharmacies' disclosure of prescriber-information for marketing purposes but later stating the Court would reach the same result under "a special commercial speech inquiry or a stricter form of judicial scrutiny" (quotation omitted)).

In *In re Primus*, 436 U.S. 412, the Supreme Court held that even though the practice of law is a profession licensed by the state, regulations of attorney speech are subject to strict—not intermediate—scrutiny, if the attorney is offering her

services pro bono for public interest purposes. *Id*. at 437–38 & n. 32. This holding applies to the speech of pro-life pregnancy centers, who engage in speech in the furtherance of their pro-life beliefs as a form of public advocacy. The *In re Primus* Court explained that "prophylactic" speech regulations can govern attorney speech made "for pecuniary gain," but "significantly greater precision" is required for regulations of attorneys engaged in public interest advocacy. *Id*. at 434, 438.[2]

Similarly, in *NAACP v. Button*—which also dealt with restrictions on pro bono attorney speech—the Supreme Court held that "only a compelling state interest in the regulation of a subject within the State's constitutional power to regulate can justify limiting First Amendment freedoms." 371 U.S. at 438–39. Consequently, "it is no answer" to First Amendment claims to say "that the purpose of [the law] was merely to insure high professional standards and not to curtail free expression." *Id*. at 439. "[A] state may not, under the guise of prohibiting professional misconduct, ignore constitutional rights." *Id*.

[2] The Ninth Circuit recently found the speech of pregnancy centers to be subject to the professional speech doctrine, explicitly rejecting the application of *In re Primus*. *Nat'l Inst. of Family & Life Advocates v. Harris*, 839 F.3d 823, 841 (9th Cir. 2016). It stated that pregnancy centers "have positioned themselves in the marketplace as pregnancy clinics." *Id*. But pregnancy centers such as the members of *amici* charge no fee for their services, and do so to further their pro-life religious and moral mission. There is no relevant constitutional distinction between this activity and that of the pro bono attorneys in *In re Primus*. If pro bono public interest services by professionals count as putting oneself in the "marketplace," it negates the holding of *In re Primus*.

These cases simply leave no room to doubt that strict scrutiny applies to content and viewpoint based regulations of professional speech. *See, e.g.*, *NAACP*, 371 U.S. at 429 ("[Abstract discussion is not the only species of communication which the Constitution protects ...."). Indeed, the First Amendment forbids government from regulating even wholly proscribable speech, such as fighting words, "based on hostility—or favoritism—towards the underlying message expressed." *R.A.V. v. City of St. Paul*, 505 U.S. 377, 386 (1992). No less is true of professional speech. As the Supreme Court has explained, "[t]he point of the First Amendment is that majority preferences must be expressed in some fashion other than silencing speech on the basis of its content." *Id.* at 392.

Notably, in *Stuart*, this Court struck down compelled speech requirements in the context of providing an abortion because they were "ideological." While a state can generally regulate medical practice, it "cannot commandeer the doctor-patient relationship to compel a physician to express its [message] to a patient." 774 F.3d at 253. "Regulations which compel ideological speech 'pose the inherent risk that the Government seeks not to advance a legitimate regulatory goal, but to suppress unpopular ideas or information or manipulate the public debate through coercion rather than persuasion.'" *Id*. at 255 (citing *Turner Broad. Sys. v. FCC*, 512 U.S. 622, 641 (1994)). "This compelled speech, even though it is a regulation of the medical profession, is ideological in intent and in kind," and therefore invalid. *Id*. at 242.

Additionally, in *Wollschlaeger v. Governor of Florida*, the Eleventh Circuit invalidated a content-based regulation of professional speech applicable to doctors under "heightened scrutiny" pursuant to *Sorrell v. IMS Health Inc*., 564 U.S. 552, rejecting the application of intermediate scrutiny. 848 F.3d at 1301, 1312.

The Baltimore Ordinance is not a regulation of professional speech, and therefore lower standards of scrutiny do not apply. *Amici* urge this Court to uphold the District Court's application of strict scrutiny to the Ordinance as a content-based restriction of speech.

CONCLUSION

For all of these reasons, the judgment of the District Court should be upheld.

Respectfully submitted,

Kevin H. Theriot
Counsel of Record
Elissa M. Graves
Alliance Defending Freedom
15100 N. 90th St.
Scottsdale, AZ 85260
(480) 444-0020
(480) 444-0028 (fax)

David A. Cortman
Alliance Defending Freedom
1000 Hurricane Shoals Rd. NE
Suite D-1100 30040
Lawrenceville, GA
(770) 339-0074
(770) 339-6744 (fax)

Attorneys for Amici Curiae

April 3, 2017

CERTIFICATE OF COMPLIANCE WITH RULE 32(a)

Pursuant to Federal Rule of Appellate Procedure 32(a)(7)(c), I hereby certify that this brief contains 3,738 words, excluding the portions of the brief exempted by Federal Rule of Appellate Procedure 32(a)(7)(B)(iii), and has been prepared in a proportionally spaced typeface using Times New Roman 14-point font.

Date: April 3, 2017

s/ Kevin H. Theriot
Kevin H. Theriot

Attorney for Amici Curiae

CERTIFICATE OF SERVICE

I certify that on April 3, 2017, the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below:

Date: April 3, 2017

s/ Kevin H. Theriot
Kevin H. Theriot

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

APPEARANCE OF COUNSEL FORM

BAR ADMISSION & ECF REGISTRATION: If you have not been admitted to practice before the Fourth Circuit, you must complete and return an Application for Admission before filing this form. If you were admitted to practice under a different name than you are now using, you must include your former name when completing this form so that we can locate you on the attorney roll. Electronic filing by counsel is required in all Fourth Circuit cases. If you have not registered as a Fourth Circuit ECF Filer, please complete the required steps at Register for eFiling.

THE CLERK WILL ENTER MY APPEARANCE IN APPEAL NO. 16-2325 as

☐ Retained ☐ Court-appointed(CJA) ☐ Court-assigned(non-CJA) ☐ Federal Defender ☑ Pro Bono ☐ Government

COUNSEL FOR: National Institute of Family and Life Advocates and Heartbeat International

_____ as the
(party name)

☐ appellant(s) ☐ appellee(s) ☐ petitioner(s) ☐ respondent(s) ☑ amicus curiae ☐ intervenor(s) ☐ movant(s)

_____
(signature)

Kevin H. Theriot
Name (printed or typed)

480-444-0020
Voice Phone

Alliance Defending Freedom
Firm Name (if applicable)

480-444-0028
Fax Number

15100 N 90th Street

Scottsdale, AZ 85260
Address

ktheriot@ADFlegal.org
E-mail address (print or type)

CERTIFICATE OF SERVICE

I certify that on April 3, 2017 the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below:

_____
Signature

4/3/17
Date

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
DISCLOSURE OF CORPORATE AFFILIATIONS AND OTHER INTERESTS

Disclosures must be filed on behalf of all parties to a civil, agency, bankruptcy or mandamus case, except that a disclosure statement is **not** required from the United States, from an indigent party, or from a state or local government in a pro se case. In mandamus cases arising from a civil or bankruptcy action, all parties to the action in the district court are considered parties to the mandamus case.

Corporate defendants in a criminal or post-conviction case and corporate amici curiae are required to file disclosure statements.

If counsel is not a registered ECF filer and does not intend to file documents other than the required disclosure statement, counsel may file the disclosure statement in paper rather than electronic form. Counsel has a continuing duty to update this information.

No. 16-235 Caption: Greater Baltimore Ctr. v. Mayor and City Council of Baltimore

Pursuant to FRAP 26.1 and Local Rule 26.1,

Heartbeat International
(name of party/amicus)

who is amicus curiae, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☑ NO

2. Does party/amicus have any parent corporations? ☐ YES ☑ NO
If yes, identify all parent corporations, including all generations of parent corporations:

3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☑ NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(a)(2)(B))? ☐ YES ☑ NO
If yes, identify entity and nature of interest:

5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:

6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☑ NO
If yes, identify any trustee and the members of any creditors' committee:

Signature: Kevin H. Theriot Date: 4/3/2017

Counsel for: Heartbeat International

CERTIFICATE OF SERVICE

****

I certify that on 4/3/2017 the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below:

Kevin H. Theriot 4/3/2017
(signature) (date)

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
DISCLOSURE OF CORPORATE AFFILIATIONS AND OTHER INTERESTS

Disclosures must be filed on behalf of all parties to a civil, agency, bankruptcy or mandamus case, except that a disclosure statement is **not** required from the United States, from an indigent party, or from a state or local government in a pro se case. In mandamus cases arising from a civil or bankruptcy action, all parties to the action in the district court are considered parties to the mandamus case.

Corporate defendants in a criminal or post-conviction case and corporate amici curiae are required to file disclosure statements.

If counsel is not a registered ECF filer and does not intend to file documents other than the required disclosure statement, counsel may file the disclosure statement in paper rather than electronic form. Counsel has a continuing duty to update this information.

No. 16-235 Caption: Greater Baltimore Ctr. v. Mayor and City Council of Baltimore

Pursuant to FRAP 26.1 and Local Rule 26.1,

National Institute of Family and Life Advocates (NIFLA)
(name of party/amicus)

who is amicus curiae, makes the following disclosure:
(appellant/appellee/petitioner/respondent/amicus/intervenor)

1. Is party/amicus a publicly held corporation or other publicly held entity? ☐ YES ☑ NO

2. Does party/amicus have any parent corporations? ☐ YES ☑ NO
If yes, identify all parent corporations, including all generations of parent corporations:

3. Is 10% or more of the stock of a party/amicus owned by a publicly held corporation or other publicly held entity? ☐ YES ☑ NO
If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Rule 26.1(a)(2)(B))? ☐ YES ☑ NO
If yes, identify entity and nature of interest:

5. Is party a trade association? (amici curiae do not complete this question) ☐ YES ☐ NO
If yes, identify any publicly held member whose stock or equity value could be affected substantially by the outcome of the proceeding or whose claims the trade association is pursuing in a representative capacity, or state that there is no such member:

6. Does this case arise out of a bankruptcy proceeding? ☐ YES ☑ NO
If yes, identify any trustee and the members of any creditors' committee:

Signature: Kevin H. Theriot Date: 4/3/2017

Counsel for: NIFLA

CERTIFICATE OF SERVICE

****

I certify that on 4/3/2017 the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below:

Kevin H. Theriot 4/3/2017
(signature) (date)

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

APPEARANCE OF COUNSEL FORM

BAR ADMISSION & ECF REGISTRATION: If you have not been admitted to practice before the Fourth Circuit, you must complete and return an Application for Admission before filing this form. If you were admitted to practice under a different name than you are now using, you must include your former name when completing this form so that we can locate you on the attorney roll. Electronic filing by counsel is required in all Fourth Circuit cases. If you have not registered as a Fourth Circuit ECF Filer, please complete the required steps at Register for eFiling.

THE CLERK WILL ENTER MY APPEARANCE IN APPEAL NO. 16-2325 as

☐ Retained ☐ Court-appointed(CJA) ☐ Court-assigned(non-CJA) ☐ Federal Defender ☑ Pro Bono ☐ Government

COUNSEL FOR: National Institute of Family and Life Advocates and Heartbeat International

_____ as the
(party name)

☐ appellant(s) ☐ appellee(s) ☐ petitioner(s) ☐ respondent(s) ☑ amicus curiae ☐ intervenor(s) ☐ movant(s)

_____
(signature)

Kevin H. Theriot
Name (printed or typed)

480-444-0020
Voice Phone

Alliance Defending Freedom
Firm Name (if applicable)

480-444-0028
Fax Number

15100 N 90th Street

Scottsdale, AZ 85260
Address

ktheriot@ADFlegal.org
E-mail address (print or type)

CERTIFICATE OF SERVICE

I certify that on April 3, 2017 the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by serving a true and correct copy at the addresses listed below:

_____
Signature

4/3/17
Date