



Thomas More
SOCIETY

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VIA EMAIL AND U.S. MAIL

Re: Your “Demand to Cease and Desist” to Live Action

Dear Ms. Duane and Ms. Abut:

This firm represents Live Action, which engages in pro-life publishing activity as “Live Action News.” We have reviewed your July 15, 2026 letter, which demands that our client delete years of reporting and commentary on the most contested moral and political question in American public life, publish “full and unequivocal” recantations drafted to your specifications, promise never again to publish “false statements” about an open-ended and unnamed class of “other pregnant individuals,” and then certify its obedience to you in writing.

The answer is “No.”

Live Action will not cease reporting on abortion. It will not desist from expressing the view—shared by tens of millions of Americans and by the pro-life movement your clients have made careers of publicly opposing—that abortion takes the life of a living human being and is accurately described as “killing.” Live Action will not delete its archive, will not retract protected opinion, and will not submit its future coverage of public figures, public lawsuits, public convention speeches, and public political campaigns to your pre-clearance.

Your pro-abortion organization and its clients are public activists in an overtly political campaign to overturn every limit on and regulation of abortion, and to elect candidates who share your radical views. Your clients have addressed the Democratic National Convention and appeared in presidential campaign advertising, as your own exhibits and footnotes concede in your July 15 letter. Notably too, your lead client campaigns to repeal Wisconsin’s 20-week abortion limit and cuts ads for local pro-abortion candidates.

You and your clients want abortion on demand, without limit, at any stage of pregnancy, for any reason. Our client exposes and opposes these nefarious objectives, loudly and in print. Your letter takes ideological issue with our client’s opposition, not any truly tortious conduct.

Additionally, your entire theory of the case requires you to argue that some abortions are “better” than others: that a woman who obtains an “elective” abortion (your word) is morally

worse—her standing in the community is lower—than a woman whose abortion you label as “medically necessary.” While our client rejects your framing of abortion and the decision to abort, your legal theory would place you before a judge and jury ranking the moral culpability of your clients’ abortions (and your clients) against one another and against other women in the community who procured abortions.

We also note how your “demand” was publicly delivered. Your firm posted its letter, together with your clients’ most intimate medical details, on the public internet and sought press coverage of the allegedly damaging statements. Your own conduct thus belies your claims that our client’s good-faith news coverage worked any actual harm to your clients.

I. Your Clients Are Political Activists.

Your letter presents thirteen private citizens, purportedly minding their own business, ambushed by a newsroom. The public record—much of it created by your clients, and the rest created by your own organization—tells quite a different story.

Megan Kling took her story to the Milwaukee Journal Sentinel, the Wisconsin Independent, and News 8 Now, and campaigned publicly for the repeal of Wisconsin’s 20-week abortion law. In her own words: “The policies are very cruel and that is the entire reason why I chose to share my story.” Your own letter describes her as a scheduled speaker at an event outside the Wisconsin State Capitol, alongside “several Wisconsin politicians.” Ms. Kling is a political advocate and a public figure for defamation law purposes.

Kate Cox sued the State of Texas, addressed the Democratic National Convention, and has sent fundraising appeals invoking her case—facts your own Exhibit C catalogues. Dr. Austin Dennard appeared in a presidential campaign advertisement—a fact your own footnote 33 concedes. Jennifer Adkins, Kayla Smith, and Jillaine St. Michel brought a high-profile suit against the State of Idaho. Ashley Brandt, Samantha Casiano, Dr. Dennard, Taylor Edwards, and Lauren Miller were plaintiffs in *Zurawski v. Texas*—a case that you, Ms. Duane, personally brought and personally promoted, and that your colleague Ms. Keenan helped turn into “the award-winning independent documentary *Zurawski v Texas*.” And Taylor Edwards is celebrated in your organization’s own press materials as one of its “storytellers,” “whose recent video featured on People.com drew millions of views.”

Each of your clients made a deliberate choice to leap into the nation’s defining public controversy, to vocally advocate for abortion, and to make their personal medical stories the centerpiece of that advocacy. Having jumped into the fray, they cannot now silence the opposition. For decades, the Supreme Court has made clear that the First Amendment does not allow advocates to inject their personal stories into a political fight and then sue the other side for exposing and poking holes in those stories. Your clients voluntarily thrust themselves to the forefront of this controversy to influence its outcome. At minimum, each of them is thus a limited-purpose public figure with respect to it, with corresponding legal implications for their adverse claims against our client. *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 345 (1974).

More specifically, to make out the claims you threaten, each of your clients must prove by clear and convincing evidence that a specific, provably false statement of fact was published with knowledge of falsity or reckless disregard of the truth—a subjective standard requiring proof that the publisher “in fact entertained serious doubts.” *New York Times Co. v. Sullivan*, 376 U.S. 254, 279–80 (1964); *St. Amant v. Thompson*, 390 U.S. 727, 731 (1968). Any client who persuaded a court that she remained a private figure would gain less than your letter assumes: she would still bear the burden of proving falsity, *Philadelphia Newspapers, Inc. v. Hepps*, 475 U.S. 767, 776–77 (1986), and of proving at least negligence, *Denny v. Mertz*, 106 Wis. 2d 636, 654–58, 318 N.W.2d 141 (1982). Any presumed and punitive damages would still require actual malice. *Gertz*, 418 U.S. at 349. Your fourteen pages never engage any of these burdens, let alone show how your clients could carry them.

II. Your Legal Threat Is Light on Legal Substance and Heavy on Media Bait.

Amplify Legal is “the litigation arm” of Abortion in America—a “storytelling” operation co-founded by the late Cecile Richards, the longtime president of Planned Parenthood—created, in your Chief Executive’s words, so that your Litigation Director could “file lawsuits and other formal legal complaints ... and use the law to bring greater public awareness” to the cause. The mission of your practice appears to be to use legal process as a publicity instrument. Your organization claims “a network of over 300 storytellers.” The model is litigation as content: plaintiffs become “storytellers,” and demand letters go up on the website the day they issue. Our client is entitled to describe this operation for exactly what it is, and it will.

Nor is this some sort of organic grassroots effort. Abortion in America is, by its own description, “a project of Hopewell Fund”—a multi-hundred-million-dollar entity contracted with Arabella Advisors for business and administrative services. Arabella sits at the center of what The New York Times has described as an “opaque network” that has “funneled hundreds of millions of dollars through a daisy chain of groups supporting Democrats and progressive causes,” and whose flagship fund The Atlantic called “the indisputable heavyweight of Democratic dark money.”

Hopewell Fund alone received \$16,831,000 from the Open Society Foundations—George Soros’s grantmaking network—from 2020 through 2022, per Open Society’s own published grant database. Outside analyses of those same disclosures tally more than \$150 million from Open Society to Arabella-administered funds between 2018 and 2022, including roughly \$31 million in 2022 alone. When your letter accuses a small nonprofit newsroom of having “built an entire business” around its coverage, the projection is difficult to miss. Our client publishes on its own website, with its sources hyperlinked for any reader to check. Your operation routes a nine-figure political agenda through a fiscal sponsor so the public cannot readily see who is paying tens or hundreds of millions of dollars for letters like the one you posted on July 15.

Your agenda is not hidden: neither your organization nor, to our knowledge, any of your thirteen clients has ever identified any abortion restriction it would accept, any gestational line it would draw, or any abortion reason it would rule out. Our client believes, and is entitled to say, that your campaign intends abortion without limits. The April 15, 2025 article your letter attacks made exactly that argument as its central editorial point. You and your clients are not advocating

for some limited exceptions to laws, tailored to their rare particular pregnancy issues. You are using difficult, limited situations to advance a radical and divisive political program, with legal threats aimed squarely at frightening into silence the journalists who oppose it. Our client will not be silenced, and the First Amendment is firmly on its side.

III. Your Letter Ignores the First Amendment.

In your fourteen pages threatening a defamation action, your letter says remarkably little about the law governing one. Defamation requires false statements of fact; opinion, moral judgments, speech on public issues, and other categories constitute protected speech.

Falsity is your burden, not ours. Where, as here, the speech addresses matters of public concern, the plaintiff bears the burden of proving falsity, as well as fault. *Philadelphia Newspapers, Inc. v. Hepps*, 475 U.S. 767, 776–77 (1986). Wisconsin law, which you invoke, places that same falsity burden on public-figure and private-figure plaintiffs alike. *See Torgerson v. Journal/Sentinel, Inc.*, 210 Wis. 2d 524, 543 & n.18 (1997).

Substantial truth defeats liability. A defamation case cannot be built out of quibbles. Wisconsin measures a challenged statement by its gist: “It is not necessary to prove the literal truth of the precise statement made. Slight inaccuracies of expression are immaterial provided that the defamatory charge is true in substance.” *Simonson v. United Press Int’l, Inc.*, 500 F. Supp. 1261, 1265 (E.D. Wis. 1980) (applying Wisconsin law), *aff’d*, 654 F.2d 478, 482 (7th Cir. 1981); *accord Masson v. New Yorker Magazine, Inc.*, 501 U.S. 496, 516–17 (1991). The minor discrepancies of date, sequence, and phrasing which your letter alleges cannot surmount the substantial truth defense.

Opinion, moral judgment, and rhetorical hyperbole are not actionable. Statements that cannot reasonably be understood as asserting objectively verifiable fact—moral characterizations, value judgments, loose and figurative rhetoric—are constitutionally protected. *Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 20–21 (1990); *Greenbelt Coop. Publ’g Ass’n v. Bresler*, 398 U.S. 6, 14 (1970) (“blackmail”); *Letter Carriers v. Austin*, 418 U.S. 264, 284–86 (1974) (“traitor”). As the Court put it in the very case you cite: “Under the First Amendment there is no such thing as a false idea.” *Gertz*, 418 U.S. at 339. You quote *Gertz*’s observation that false statements of fact lack constitutional value; you omit the teaching that follows—that the First Amendment “requires that we protect some falsehood in order to protect speech that matters.” *Id.* at 341.

Speech on public issues occupies the highest rung of First Amendment protection—even when it wounds. The Supreme Court has held that speech on matters of public concern is protected even when it is alleged to inflict great pain. *Snyder v. Phelps*, 562 U.S. 443, 452–53, 460–61 (2011). Our client’s commentary on public lawsuits, convention speeches, and campaign advertising sits far closer to the core of protected debate than the speech the Court protected in *Snyder*. And emotional-distress theories cannot be used to evade these protections. *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46, 50–57 (1988).

Speakers are also not liable for third parties' reactions. "Speech does not lose its protected character ... simply because it may embarrass others or coerce them into action." *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 910 (1982). Your letter's insinuation that our client's reporting somehow implicates the crimes of a Minnesota murderer is as legally frivolous as it is inflammatory: Live Action has always condemned violence without qualification, and it is no more answerable for a criminal's acts—or for anonymous comments posted by third parties on X (*see, e.g.*, 47 U.S.C. § 230)—than your clients are answerable for every act committed in the name of their cause. We would add that it takes considerable nerve to accuse a newsroom of "advertising" a client's name "exactly to the perpetrators" in the same month your firm published that client's name, hometown, family composition, and complete reproductive history on the open internet, attached to a press release.

IV. Stating that Abortion Is "Killing" Is True, Protected Speech.

The gravamen of your letter, repeated for every client, is that our client defames by describing your clients' abortions as "killing." The use of the term "killing" in relation to abortion is protected under law, regularly used by the courts, and wholly accurate.

The law has rejected your theory in every final decision an American court has rendered on it, across nearly four decades, including in a case this firm itself won.

Begin with the most recent and most authoritative decision. The Texas Supreme Court—the highest court of the State where seven of your thirteen clients' claims would be centered—confronted this theory in *Lilith Fund for Reproductive Equity v. Dickson*, 662 S.W.3d 355 (Tex. 2023), and rejected it. Statements equating abortion with murder and characterizing its participants accordingly, made in the context of advocacy about abortion's legality and morality, are protected opinion "about abortion law," because "an advocate is free 'to speak, write, or publish his opinions on any subject.'" 662 S.W.3d at 357, 372. Your Texas clients' claims run headlong into controlling Texas Supreme Court authority protecting the characterization your letter most often attacks. Your letter does not mention it.

The rule *Lilith Fund* applied is not new. In *Van Duyn v. Smith*, 173 Ill. App. 3d 523, 527 N.E.2d 1005 (3d Dist. 1988), *appeal denied*, 124 Ill. 2d 562, 535 N.E.2d 922 (1989) (table), *cert. denied*, 492 U.S. 906 (1989), the executive director of an abortion facility sued a pro-life advocate who had distributed "Wanted"-style posters declaring her a wanted person "for prenatal killing." The Illinois Appellate Court rejected the defamation claim: in the context of the abortion controversy, characterizing abortion as killing is not a verifiable defamatory statement of fact; it is the speaker's protected judgment about what abortion is. That holding has stood for thirty-eight years, and it is the authority the Texas Supreme Court relied upon in *Lilith Fund*. See 662 S.W.3d at 366 & n.60 (citing *Van Duyn*, 527 N.E.2d at 1007, 1014, as "rejecting abortion provider's defamation suit ... as not a verifiable defamatory statement of fact, given the context").

This firm has litigated this exact fight before—for the defense, to a dismissal with prejudice. In *Stericycle, Inc. v. Created Equal PAC*, No. 16-CH-522 (Ill. Cir. Ct. Lake Cnty.), Planned Parenthood's medical-waste contractor, the multi-billion-dollar corporation Stericycle,

and its chief executive officer sued (represented by the former U.S. Attorney for the Northern District of Illinois) a pro-life organization over a public campaign—a website and hashtag branding them “killers among us,” and postcards, mailed into the executive’s own neighborhood, declaring that the company “Enables Killing Children” and that the executive “Enables Baby Killing,” his photograph set beside graphic abortion imagery. That rhetoric was harsher, and far more personal, than anything in the reporting your letter attacks.

The court dismissed with prejudice the defamation and false-light counts: “references to enabling ‘killing’ and even suggesting that an individual is ‘a killer’ are constitutionally protected expressions of opinion when these words are used in the context of the abortion debate.” Memorandum Opinion and Order at 11, *Stericycle*, No. 16-CH-522 (Ill. Cir. Ct. Lake Cnty. Sept. 29, 2016).

Against this line of authority, your fourteen pages cite no on-point cases at all. Not one final decision, from any court in any State, holds that describing an abortion as “killing” defames the woman who obtained it or the physician who performed it. We are aware of none. A demand letter built on a phantom legal theory, and citing none of the courts that rejected it, is a bluff.

Significantly, the United States Supreme Court, among other courts, uses the word “kill” to refer to abortion. In *Gonzales v. Carhart*, the Court’s majority opinion described a practice of some second-trimester providers in these words: “Some doctors, especially later in the second trimester, may kill the fetus a day or two before performing the surgical evacuation. They inject digoxin or potassium chloride into the fetus, the umbilical cord, or the amniotic fluid.” 550 U.S. 124, 136 (2007). The Court’s clinical descriptions of dilation-and-evacuation procedures in the same passage are more graphic than anything our client published. If “kill” and “dismember” are actionable defamation when applied to abortion, your quarrel is not with Live Action; it is with the U.S. Supreme Court.

Your clients’ own words confirm this point. Ms. Kling, in the quotation your own letter reproduces at page 7, describes “the medical care we needed” as “abortion.” The Wisconsin Independent profile she embraces as accurate reports that “[s]he was given the abortion medication mifepristone and misoprostol to dilate her cervix and Pitocin to induce contractions.” Wisconsin law and Minnesota law alike classify what occurred as an abortion.

Whether deliberately cutting short the life of a living unborn child is rightly called “killing” is a moral characterization on which this country is profoundly divided—precisely the kind of value-laden judgment the Constitution consigns to debate rather than to damages. Your own letter concedes the critical moral stakes twice over: in footnote 2, where you explain that your terminology choices follow “the terminology preferred by the individual” as a matter of “principles of medical ethics,” and throughout, where your letter substitutes “end the pregnancy” for what occurred. A pregnancy requires the presence of a living child, and in every case your letter describes, that child died—in most, in the procedure itself; in others, shortly after a live birth. Terminology preferences may implicate ethics, rhetoric, and moral judgments, but not defamation law.

One more point, because your letter blurs it deliberately: our client never accused any of your clients of the crime of murder. It described what abortion does and made a moral judgment about it—in publications every reader knows to be pro-life advocacy journalism. No reasonable reader mistakes a pro-life outlet’s moral vocabulary for a charge of homicide, and the case law above says exactly that.

V. The Public Record Refutes Each of Your Four Claims for Ms. Kling.

You devote six pages to Ms. Kling as your “representative example.” We agree she is representative—but of the fatal defects of your legal theories, not their merit. Each of your four categories collapses on the public record.

A. The Mayo Clinic study: Your centerpiece “falsity” appears to be your own citation error. Your letter calls it “false” that Mayo was “currently carrying out a study on amnioinfusion,” asserting that “all publicly available information indicates it had exited the relevant trial prior to Ms. Kling’s visit”—citing (footnote 13) the 2023 JAMA report of the multicenter Renal Anhydramnios Fetal Therapy (RAFT) trial, NCT03101891, which was “stopped early.” But the study the April 15, 2025 article referenced—the one that, in the article’s words, “began in 2018”—is a different trial: “Serial Amnioinfusions as Regenerative Therapy for Pulmonary Hypoplasia,” NCT03723564, sponsored by and sited at the Mayo Clinic in Rochester.

We know you are aware of this study, because your own footnote 14 cites its registry listing for its eligibility criteria—in the same breath that your footnote 13 cites a different trial’s early stoppage. The two registrations are *different* studies: different NCT numbers, different sponsors—Johns Hopkins for RAFT, the Mayo Clinic for the study the article referenced—different protocols, and different site structures: RAFT ran through a nine-center consortium (which included Mayo among the nine), while NCT03723564 lists a single site, the Mayo Clinic in Rochester. And ClinicalTrials.gov’s own immutable version archive refutes your chronology on every date that matters. On November 10, 2023, the registry’s then-current record showed the Mayo study Recruiting at Mayo Rochester. On April 15, 2025—the day the article published—the then-current record (posted November 4, 2024) again showed it Recruiting, with estimated primary completion December 31, 2025. And version 10 of the record—submitted November 8, 2025, posted November 12, 2025, nearly seven months after the article ran—showed the study still Recruiting, its start date October 1, 2018 (actual), and its estimated completion dates extended to December 31, 2026 and December 31, 2027. That version was still the current public record on July 15, 2026: on the day you mailed your demand, ClinicalTrials.gov said what the article had said fifteen months earlier. In other words: the marquee “provably false” statement in your letter—the one you demand our client “retract” as element (2) of the public confession you drafted for them—rests on your own conflation of two clinical trials. The only “reckless disregard” for easily reportable facts here is your own, not that of Live Action.

The article also asserted less than you claim. Its headline—“Mom encouraged to abort baby, even as doctors worked to save others like him”—is one your letter reads as a promise that Nolan himself could have been saved. It promises nothing of the kind. “Others like him” refers to other children who shared Nolan’s primary diagnosis, bilateral renal agenesis; the article did not

represent that those children shared his every anomaly, and it disclosed his additional anomalies to its readers in the same piece. The article did not state that the trial was open to Ms. Kling or that it would have saved Nolan. It reported that amnioinfusion research existed at the same hospital where her abortion took place, and asked whether anyone had told her—a question your letter answers with facts drawn from her *private* medical consultations (you state that Ms. Kling inquired and was told her son’s additional anomalies excluded her), which our client did not have and could not lawfully obtain. A publisher cannot “recklessly disregard” facts sealed inside a patient’s chart.

Nor did the article conceal the gravity of the diagnosis your letter accuses it of minimizing. It reported that the specialized ultrasound “confirmed the diagnosis”; that the couple “were also told that the baby did not have a bladder and also had abnormalities in his brain and heart”; and that “[w]ithout kidneys or fully functioning lungs, children with the condition are likely to die at birth.” Our client’s July 21, 2025 follow-up put it in these terms: “If this diagnosis was correct, there was a high likelihood that Nolan would die during pregnancy or at birth.” Your letter’s charge that our client hid what it in fact printed is refuted by the article itself. The article’s description of Nolan’s condition as “life-limiting” was likewise accurate, and your objection to it proves our point: Nolan was alive, and his condition was expected to limit the length of his life. A quarrel with that phrasing is a quarrel with the premise that his life had already begun—a moral and biological conviction, not a defamatory fact. And as for children who “beat the odds”: the JAMA article your own footnote cites to prove that no baby “like” Nolan could be saved is titled “Neonatal Survival After Serial Amnioinfusions for Bilateral Renal Agenesis.” Survival of bilateral renal agenesis after amnioinfusion is not a Live Action invention; it’s in the title of your own source. The article named publicly known survivors, disclosed Nolan’s additional anomalies to its readers in the same piece, and drew its comparison on that disclosed record—this is commentary on disclosed facts, not defamation.

B. Maternal risk: The article disclosed her physician’s own assessment and characterized it. You attack the April 15 article’s statement that “neither Kling’s health nor her life were any more at risk than any woman experiencing a pregnancy without a fetal diagnosis.” Here is what Ms. Kling’s own physician told the Milwaukee Journal Sentinel—in the very passage the article quoted immediately before the sentence you challenge: “Every time a woman gets pregnant, they are risking their lives. That might sound dramatic, but you never know who will develop pre-eclampsia or some other life-threatening condition. For a mother to continue with a pregnancy that is not viable is only a risk to her.” The article quoted the physician’s generalized-risk framing at length, in the same passage, and drew its own inference in front of the reader—who had the quotation itself to test that inference against. Characterizing a disclosed statement is commentary, not fabrication.

Beyond that, whether a particular fetal diagnosis elevated a particular mother’s risk “more than” ordinary pregnancy is a matter on which medical experts differ—the study your letter itself cites for maternal-morbidity risks candidly discloses its “retrospective” design, “small sample size,” and “limited morbidity analysis.” A list of complications that can attend such pregnancies—preeclampsia, sepsis, mirror syndrome—is not evidence that Ms. Kling had developed any of them or faced an immediate threat to her life. Nor does the phrase “high-risk pregnancy” do the work your letter assigns it: as the Cleveland Clinic explains, the term denotes

increased risk to the mother, the fetus, or both—and, in the Clinic’s own words, a high-risk classification “doesn’t mean you or the fetus will have health problems.” Contested medical characterizations of degree are classic non-actionable opinions. And the article’s inference from Wisconsin law was just that—an inference from public law.

Your letter attributes Ms. Kling’s out-of-state travel to “the state’s near-total abortion ban then in effect.” That is not what the public record shows. Abortion services resumed in Wisconsin on September 18, 2023—nearly two months before Ms. Kling’s procedure—following the circuit court’s July 2023 ruling in *Kaul v. Urmanski*. What stood between Ms. Kling and a Wisconsin abortion was Wis. Stat. § 253.107, the 20-week postfertilization law she now campaigns to repeal—a statute with an express exception where a “medical emergency,” in a physician’s reasonable medical judgment, necessitates immediate abortion “to avert her death” or where a 24-hour delay would create “serious risk of substantial and irreversible impairment of one or more of the woman’s major bodily functions.” Wis. Stat. § 253.10(2)(d). Wisconsin’s separate post-viability statute likewise exempts abortions “necessary to preserve the life or health of the woman, as determined by reasonable medical judgment of the woman’s attending physician.” Wis. Stat. § 940.15(3). No physician invoked either exception for Ms. Kling; her providers instead referred her out of state. Whether those facts support the article’s characterization of her relative risk is a question of interpretation and degree—the territory of protected commentary and substantial truth, not of provable falsity.

C. “Killing.” Section IV above disposes of this category. We add only this: the April 15 article quoted Ms. Kling’s actual words at length—“I was honestly very angry that the only option in the state of Wisconsin for me was to carry that baby to term”—and characterized them. The plain reading of Ms. Kling’s own words is that she believed her baby was going to live to term, and she then decided to cut short his life by abortion. Characterizing accurately quoted, fully disclosed statements is protected commentary, not fabrication. So too the article’s use of the word “cruel”: it answered Ms. Kling’s own public description of Wisconsin’s laws as “very cruel,” and disagreement about which policy is the cruel one is the substance of the abortion debate, not a tort. Wisconsin’s implication doctrine does not convert accurate quotation plus moral disagreement into a defamation claim.

D. “Encouraged.” Your letter insists Ms. Kling was not “encouraged” to abort, because—as you put it—she “initiated the option” and physicians “induced labor at Ms. Kling’s request.” Initiation and encouragement are not opposites. On the public record, Ms. Kling’s physician advised her to make the appointment at Mayo, her providers arranged the referral, and her physician has since publicly supported the procedure as a “life-saving termination.” A patient may raise an option first and still be advised, referred, facilitated, and assisted into it by her medical system; the two accounts are not even in tension. Note also what your correction of the record concedes: that the abortion was Ms. Kling’s own initiative, undertaken at her own request after her physicians provided information. Under Wisconsin law a statement is defamatory only if it tends to harm the plaintiff’s reputation in the estimation of the community. See *Hart v. Bennet*, 2003 WI App 231, ¶ 21—your own citation. A statement that a pregnant woman considering abortion followed her doctors’ counsel is, if anything, less critical of her than the account you demand our client publish in its place. Whatever else that dispute is, it is not a viable defamation claim.

VI. Your Other Twelve Clients Present the Same Defective Theories.

The letter's remaining pages recycle the two theories—that our client wrongly questioned the fatality of each prenatal diagnosis and each asserted maternal risk—against reporting that, in nearly every instance, was commentary on your clients' own lawsuits, sworn testimony, convention speeches, campaign appearances, and media tours. Two premises underlie every one of these claims, and both are wrong. A grave prognosis does not make a child already dead: each of these children was alive when the decisions your letter defends were made, and describing that reality is not defamation. And a retrospective assertion—that a condition was “fatal,” that a procedure was “necessary,” that a mother's life was “in danger”—is not self-proving; our client was entitled to test those assertions against the public record, the medical literature, and the governing law.

Fair report and fair comment. The Adkins, Smith, and St.Michel articles report and comment on *Adkins v. Idaho*—litigation those clients filed. The Casiano, Brandt, Dennard, Edwards, and Miller coverage responds to *Zurawski v. Texas*—litigation you filed and promoted with a documentary. The Cox coverage responds to *Cox v. Texas*, a Democratic National Convention address, a State of the Union appearance, and fundraising emails. Reporting on public court proceedings and public political advocacy, and criticizing the claims made there, is the core function of a free press—privileged as fair report and protected as fair comment. In Wisconsin, the privilege is statutory: a “true and fair report of any judicial ... proceeding” is privileged. Wis. Stat. § 895.05(1); see *Simonson v. United Press Int'l, Inc.*, 500 F. Supp. 1261, 1266–67 (E.D. Wis. 1980) (rejecting a judge's defamation claims over wire-service reports of his courtroom remarks), *aff'd on substantial-truth grounds*, 654 F.2d 478, 482 (7th Cir. 1981).

Trisomy 18 (Ms. Cox, Ms. Miller, Ms. Djukanovic). Your letter asserts that Ms. Cox's baby “had no chance of survival” due to “a fatal form of Trisomy 18,” and brands as defamatory our client's observation that the child “wasn't necessarily doomed to die.” The American Academy of Pediatrics' current clinical guidance—published July 2025—expressly rejects “previous characterizations of these disorders as being uniformly lethal,” citing “multiple studies [that] have demonstrated improved morbidity and mortality when indicated interventions, such as cardiac surgery, are performed.” Our client reported that guidance accurately. If you disagree, your claim is with the American Academy of Pediatrics, not our client.

Monosomy X (the Adkinses). The same defect: your letter labels the diagnosis a “fatal form” of Monosomy X and treats the label as beyond dispute. Monosomy X is not invariably fatal—some share of affected children survive to birth and beyond—and distinguishing a grave prognosis from a settled one is precisely the scrutiny that public claims, made in support of public litigation, invite.

“Medical necessity” (Ms. Brandt, Ms. Smith, Dr. Dennard, Ms. St.Michel). Whether a given abortion was allegedly “medically necessary” is not a laboratory fact; it is a contested medico-ethical judgment on which the major medical societies themselves disagree. ACOG frames necessity categorically and declines to certify condition-specific lists; AAPLOG maintains that maternal risks arising from pregnancy are properly addressed by delivery—early

induction or cesarean—rather than by procedures whose object is fetal death, and that “[a]dverse prenatal diagnoses are not life-threatening for the mother.” When two national medical organizations hold opposed positions, a publisher’s adoption of one of them is protected opinion on a public controversy. Our client’s view—that delivery, not feticide, is the ethically indicated response to maternal risk—sits squarely within a live medical debate, and it will keep making that argument for as long as the debate lasts. As to Ms. Smith specifically: fetal aortic stenosis and hypoplastic left heart syndrome are grave conditions, but interventions exist in at least some cases, and your letter’s account of her particular case—including the medications and method used in her procedure—rests on counsel’s assertion alone, about records our client has never seen and could not lawfully obtain.

“Dismember” (the Edwardses, Ms. St. Michel). The procedures at issue were dilation-and-evacuation procedures. The United States Supreme Court’s own majority-opinion description of D&E—of fetal parts, forceps, and “tear[ing]”—is more explicit than the word your letter protests. *Gonzales*, 550 U.S. at 135–36. If the description is vivid, that is a feature of the procedure, not a tort on the part of the describer. As for the anonymous third-party comments quoted in your Exhibit B: our client did not write them and is not liable for them. 47 U.S.C. § 230. Nor may liability rest on association with speakers our client does not direct or control. *Claiborne Hardware*, 458 U.S. at 918–20. We note, meanwhile, that by your organization’s own press release, Ms. Edwards’s advocacy video on People.com “drew millions of views.” In your telling, mass publicity for your clients’ stories is empowerment when you generate it and defamation when our client responds to it. The First Amendment allows no such one-way ratchet. Commentary on your clients’ own public advocacy choices—choices they announced and publicized themselves—is protected for the same reason the rest of this coverage is.

Ms. Djukanovic. The December 31, 2025 fact-check questioned an account of “mirror syndrome” said to have arisen at roughly ten weeks’ gestation. Mirror syndrome is a maternal response to fetal hydrops characteristically presenting in the second and third trimesters; the earliest presentations in the published literature appear at roughly 16 to 17 weeks’ gestation, and we have located no reported case at approximately 10 weeks. Your letter supplies no medical records; it repeats your client’s characterization and demands that our client accept it unexamined. Skepticism of a medically atypical claim, expressed in a fact-check that quoted a board-certified obstetrician-gynecologist, is not reckless disregard for the truth; it is what fact-checks are for.

Ms. Casiano. A final illustration of how demanding your letter’s own standard would be. Its opening page states that each of your thirteen clients made “the decision to end their wanted pregnancy.” Five pages later, it recounts that Ms. Casiano “was forced to carry the pregnancy to term.” We do not call that defamation; it is the ordinary imprecision of writing about difficult subjects—the “breathing space” the First Amendment guarantees to your letter and to our client’s articles alike. *Gertz*, 418 U.S. at 342. Our client’s commentary on Ms. Casiano’s public testimony and litigation is entitled to that same space, and any specific factual challenge she wishes to raise will be reviewed under the policy described in Section IX.

As noted above, a statement is defamatory only if it tends to lower its subject in the estimation of the community. *See Hart v. Bennet*, 2003 WI App 231, ¶ 21. Your letter does not

claim these abortions were invented; your clients recounted them publicly, in courtrooms and on convention stages. The claimed sting is misdescription—that each diagnosis was graver, each maternal risk higher, each decision allegedly more constrained, than our client’s reporting allowed. But a misstated reason for an abortion can lower a woman’s standing in her community only if people judge women by the reasons for their abortions—only if some abortions are more defensible than others. Your movement rejects that premise as a matter of first principle: Abortion in America exists to insist that abortion is health care requiring no justification, and its “storytelling” campaign exists to erase any line between the “good” abortion and the “bad” one. And if the line does exist—if the reasons for an abortion carry real moral weight in the community—then those reasons are a legitimate subject of public scrutiny, and our client is entitled to examine the public record and publish what it concludes. Your theory of reputational harm rests on the moral seriousness of abortion. That is the same conviction your letter attacks our client for holding.

VII. Your Proposed Claims Are Mostly Dead and Otherwise Meritless.

Most of your clients’ alleged claims are already legally barred. Every relevant State follows the single-publication rule for online content: the clock runs from first posting, and continued availability online is not continuing publication. Texas and Utah give defamation plaintiffs one year; Idaho, Iowa, Washington, and Minnesota give two; Wisconsin, three. Of the twenty-five Cox publications catalogued in your own Exhibit C, at least twenty-two were published more than a year before your letter was mailed—time-barred in Texas. The Miller article you cite is from March 2023. The Brandt article: September 2024. The Casiano and Dennard items: 2024. The article underlying Ms. Smith’s “feticide” grievance: March 6, 2024—beyond Idaho’s two-year statute. Borrowing statutes foreclose shopping these stale claims into friendlier forums. Your letter demands sweeping “retractions” of publications on which your clients could not state a timely claim.

The claims the calendar spares—Ms. Kling’s chief among them—fail on the elements. Your clients would bear the burden of proving falsity (*Hepps*), of proving statements of fact rather than opinion or hyperbole (*Milkovich*; *Lilith Fund*; *Van Duyn*), and—as public figures in this controversy—of proving actual malice by clear and convincing evidence (*Sullivan*; *St. Amant*). Your own exhibits defeat that showing: they depict a newsroom that linked, quoted, and cited the underlying coverage it was critiquing—the opposite of fabrication. A publisher who shows its sources to its readers is not hiding from the truth; it is submitting its interpretation to public scrutiny, which is what the actual-malice standard exists to protect.

Moreover, the relief you demand is constitutionally unavailable. Demands (a) through (c) seek what no court can grant: an injunction against future speech about named individuals and an undefined class of “other pregnant individuals,” plus wholesale deletion of an archive. Prior restraints on speech are presumptively unconstitutional. *Near v. Minnesota*, 283 U.S. 697, 713 (1931). Even the courts willing to enjoin defamatory speech at all confine that remedy to specific statements adjudicated defamatory after a full trial, and strike down any injunction that reaches “statements not yet determined to be defamatory.” *McCarthy v. Fuller*, 810 F.3d 456, 462 (7th Cir. 2015). Texas goes further still: even after a defamation judgment, an injunction against future speech is a forbidden prior restraint—at most, a court may order removal of the specific

statements adjudicated defamatory. *Kinney v. Barnes*, 443 S.W.3d 87, 93–94 (Tex. 2014); see *Tory v. Cochran*, 544 U.S. 734, 738–39 (2005) (vacating an “overly broad prior restraint”). We would note that the plaintiffs in *Stericycle* began with the same overreach—an emergency motion to restrain the speech itself—and failed. Your demands seek adjudication-free deletion of an archive and pre-clearance of future speech. Demand (b) in particular asks our client to promise, in writing, never again to publish “false statements” about persons unnamed and unnumbered.

VIII. If You Sue, We Will Seek and Obtain Sanctions.

If you sue, we will take full advantage of the many fee-shifting statutes that protect news publishers against meritless defamation claims. Texas’s Citizens Participation Act mandates an award of attorneys’ fees to a successful movant and authorizes sanctions “sufficient to deter” repetition. Tex. Civ. Prac. & Rem. Code § 27.009. Washington, Utah, and Minnesota—where Ms. Smith, the Adkinses, and Ms. St.Michel now respectively reside—have each adopted the Uniform Public Expression Protection Act, with mandatory fee-shifting of its own. So have Iowa and Idaho—Ms. Djukanovic’s home state and the forum of the Adkins litigation—effective July 1, 2025 and January 1, 2026, respectively. In Wisconsin, our client will rely on Rule 11, Wis. Stat. § 802.05, and on winning on the merits. Should you proceed to court, your clients—or, more precisely, whoever is actually funding your publicity campaign—should set aside sufficient funds to pay our legal fees. (See, e.g., the award to Thomas More Society attorneys of over \$4.8 million in fees and costs by the District Court in *Mirabelli v. Olsen*, S.D. Cal. Case No. 3:23-cv-00768-BAS-VET.)

IX. Our Client Will Continue to Faithfully Apply Its Editorial Standards.

You fault our client for not contacting each of your clients before publishing, but no such legal duty exists. The articles at issue responded to statements your clients had already made publicly—in complaints, sworn testimony, convention speeches, campaign advertising, and media interviews. A fact-check of a public claim does not require the claimant’s pre-clearance, and declining to solicit a preferred quotation from an advocacy campaign does not, standing alone, establish falsity, negligence, or actual malice.

Journalism—unlike litigation-by-press-release—has a corrections process. Live Action reviews specific, good-faith factual challenges against source records and corrects verified errors of fact with appropriate prominence. In that ordinary course, and without conceding the falsity of any statement or the liability of anyone, our client will review any specific, good-faith factual challenge your clients wish to submit—supported by records—under that policy and that policy alone. Any correction that process yields is made because our client’s standards require it, not because your letter demanded it.

That is the difference between the parties here. Our client is fully willing to correct actual misstatements of fact, but you demand that it bend the knee to your radical views on abortion.

X. You and Your Network Must Preserve All Documents.

You, your clients, and your affiliated organizations—Amplify Legal, Abortion in America, Hopewell Fund, and their agents, including WLDFLWR PR—are on notice of your duty to preserve all potentially relevant materials, including without limitation: the medical, diagnostic, autopsy, and procedure records referenced in your letter; all documents concerning Ms. Kling’s claimed inquiry into amniocentesis-trial eligibility; all communications between any of your clients and any journalist, publication, or media outlet concerning Live Action, Live Action News, or its reporters; all documents concerning the drafting, review, publication, promotion, and press placement of your July 15 letter; and all funding, budgeting, and donor-advised materials concerning the campaign of which that letter is a part.

XI. Conclusion.

Your demands—all six—are rejected in toto. Live Action will continue to report on abortion, on the litigation industry that has grown up around it, and on the public advocacy of the public figures who wage that pro-abortion campaign—your clients included. Live Action will continue to correct genuine errors of fact under its own editorial standards, and it will continue to call abortion what its editors, tens of millions of Americans, the State courts, and the Supreme Court’s own opinions have called it: “killing.”

Your clients have not been defamed. If they choose to press this matter further, this letter has made clear exactly what they will be met with. If instead—as the press-release rollout suggests—the point of your letter was to test whether a well-funded threat could frighten a pro-life newsroom into silence, then consider that question answered in the negative.

You wrote that you “reserve all rights.” So does our client—including the right to seek its fees, to seek sanctions, and to seek affirmative relief in a litigation forum of its choosing.

Very truly yours,

A handwritten signature in black ink, appearing to read "Peter Breen". The signature is fluid and cursive, with a large, stylized initial "P".

Peter Breen
Executive Vice President &
Head of Litigation