No. 12-1168

In The Supreme Court of the United States

ELEANOR MCCULLEN, JEAN ZARRELLA, GREGORY A. SMITH, ERIC CADIN, CYRIL SHEA, MARK BASHOUR, and NANCY CLARK,

Petitioners,

v.

MARTHA COAKLEY, ATTORNEY GENERAL FOR THE COMMONWEALTH OF MASSACHUSETTS, *et al*.,

Respondents.

On Writ Of Certiorari To The United States Court Of Appeals For The First Circuit

AMICAE CURIAE BRIEF OF 12 WOMEN WHO ATTEST TO THE IMPORTANCE OF FREE SPEECH IN THEIR ABORTION DECISIONS IN SUPPORT OF PETITIONERS

CARRIE SEVERINO
Counsel of Record
AMMON SIMON
JUDICIAL EDUCATION PROJECT
722 12th St. NW
Fourth Floor
Washington, D.C. 20005
(571) 357-3134
carrie@judicialnetwork.com

Counsel for Amicae Curiae

September 13, 2013

COCKLE LEGAL BRIEFS (800) 225-6964
WWW.COCKLELEGALBRIEFS.COM

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INTEREST OF *AMICAE CURIAE*[1]

Amicae are women who attest to the importance of free speech in their abortion decisions.

Cindy Adams was uninformed about abortion and its consequences. Her abortion clinic told her that it was "only medically doing what your body naturally does every month," it "would be quick and painless" and she would be "back to [her] normal self in a day." Instead, her abortion left her with "a lifetime of regret." Because of the abortion, she "became promiscuous and began drinking heavily . . . to help dull the pain and shame" she felt. She wanted to "die in an accident" rather than face her pain.

Marlynda Augelli had an abortion even though the abortion clinic did not provide "information on the actual life of the child." Her abortion and resulting "tremendous psychological trauma" factored into her first divorce. According to Marlynda, she wishes she "had been told the truth . . . about the life of the unborn . . . [or] childbirth and being a mother." If she had, she says that she "would have never made the choice to end the life of my first child," who "might have been the glue that would have kept my marriage and family together."

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[1] Counsel for both parties have consented to the filing of this *amicus* brief. Their written consents accompany this brief. No counsel for a party authored this brief in whole or in part. The Judicial Education Project contributed the costs associated with the preparation and submission of this brief.

Nona Ellington was convinced by Planned Parenthood employees to get an abortion because they believed she was too young to have a baby, and her "baby [was] just a blob of tissue." She "never heard any other information about other options, fetal development, or the procedure itself." Nona went through "many years in denial and emotional numbness without much regard for living." For Nona, if someone would have "approached me to help me and give me valuable information as I was walking into the abortion clinic, I probably would not have had an abortion and suffered the horrible consequences for the rest of my life." Nona regretted that she "never knew that abortion might not have been [her] best option." For her, the manner of offering information would have made a crucial difference in her receptiveness, as she "would have ignored people yelling at me from a distance and would have only felt more shame."

Paula Lucas-Langhoff's then-boyfriend forced her into an abortion by threatening her life, and holding her "captive, saying that I could not leave until I had an abortion." The abortion clinic provided "misleading information about the abortion," including that her "baby was only a blob of tissue." She did not know that her "child was basically fully formed, had a heartbeat, and reacted to pain." The night before her abortion, she "wandered the neighborhood looking for someone" to help her, to no avail. The next day, when she tried to back out of the abortion, her doctor "yelled at [her] and said that [she] was 'wasting

his time.'" She "would give anything to change the past," and believes that she would have not had an abortion if she had met a pro-life counselor outside of the clinic. "My baby died because I was alone and had no one to help me." However, at her time of greatest need, she insists that she would not have responded well to "someone that was 35 feet away from the clinic, shouting at me or using a bullhorn."

JM explains that she became pregnant as a college sophomore after a classmate raped her. She "didn't know where to go for help" and didn't know about abortion alternatives, such as crisis pregnancy centers. She says she was pressured by abortion workers to go through with the abortion, even after she expressed doubt about wanting to have an abortion. She "was barely given enough time to read the paperwork" she was required to sign and was troubled that "they never asked to see my medical records." Abortion had very negative consequences for her health. She "spent 19 days in the psychiatric ward of a hospital with major depression, suicidal thoughts, and psychosis" and "[f]or nearly 25 years . . . struggled with chronic anxiety, depression, and feeling worthless." She really "wanted and needed . . . thorough and accurate information," but never received it. As a result, she never made "a real choice, because it wasn't fully informed." If she would have talked with the pro-life counselors that were outside the clinic, she believes that she would have chosen life, and "spared myself and my family 25 long years of having to deal with my health problems, both

emotional and physical, and had a chance at a sound and healthy marriage."

Madonna Medina "had an abortion over 33 years ago, but still remember[s] it as if it was yesterday." She explains that the "people I should have trusted the most pressured me into choosing abortion," including her doctor and her fiancé. Her prayer that pro-life counselors would be outside of the abortion clinic to stop her went unanswered. For Madonna, she "couldn't deny the emptiness [she] felt inside, physically, spiritually and emotionally. She experienced "devastating long-term consequences" from the abortion, and "endured constant thoughts of suicide" as a result.

Jean Pickett had two abortions, at an abortion clinic that "provided [her] with no counseling and no other options." She believes that if she had met a caring pro-life counselor, she might have not had an abortion. A counselor that tried "to frighten me or shout me down" would have been ineffective, however, and if she "had seen someone protesting in a Grim Reaper costume," she "would have thought they should be locked up." Her "abortions did serious damage to my mental and physical health," and caused "emotional instability, anger, and addiction."

Esther Ripplinger had an abortion at age 19, because she says she "did not receive life-affirming information when I asked for it." She asked the clinic staff about the baby's stage of development, and was told "It's only a blob of tissue," but later learned her

baby actually had "hands, feet, and a beating heart." She was also told the procedure was "quick-and-painless" and would only cause "minor discomfort," but she later felt "shocking" and "excruciating pain." She suffered from depression and anxiety from what she called the "worst decision I have ever made" and her "pain and incredible loss" from her abortion will "last[ ] a lifetime." She believes that "[i]f someone had given me information and alternatives as I walked into the clinic, I would not have made this choice." Unfortunately, her memory is only of "people with pictures of dead babies shouting," which she "perceived as not loving and caring for my needs."

Heather Shearfield says that her abortion was a "mistake that would change the rest of my life." The abortion clinic assured her that the baby "was 'tissue' and not a life or even a child." This relieved her, because she was "terrified that this was a child and that my decision was wrong." The abortion caused her to become "the hardest, meanest individual [she] could be, in an attempt to stop the hurting and grieving." For the next 24 years, she drank alcohol and used drugs, and "pursued intoxication with a desperation that [she] didn't recognize in [herself]."

Patti Smith had two abortions, at an abortion clinic that treated "abortions like something as routine as a dental filling," and did not "provide any type of comfort or assurance," or talk about abortion alternatives. After her abortion, she could not look at herself in the mirror, and became "increasingly promiscuous, drank more, and was hell-bent on

self-destruction." She thought suicide was her only way out. According to Patti, if she would have met a pro-life counselor that showed her "love and compassion, I think I would have taken a different path." But, she says that "[i]f there had been people there screaming and holding pictures of aborted babies, I would have walked right by them." Unfortunately, she says that "[n]one of my friends was trying to dissuade me" and she felt that she "had no choice." Thirty years later, she still cries about her abortion.

Susan Swander had three abortions. Susan explains that two took place during "an affair with a married man, who pressured me into an abortion." She said that she never met an abortion clinic employee that "ever mentioned alternatives to abortion to me, or any relevant medical details about the abortion, such as the physical and emotional risks to my health." She was treated as "just a body with . . . cells that [the clinic] would remove." She "suffered for 36 years from depression, guilt, shame, alcoholic drinking, drug use, promiscuity, overeating, and deep-seated anger." She wishes that someone would have told her about her other options before she had her abortions. Even though she says that "[s]omeone outside a clinic with a bullhorn would have made me angry," she maintains that a calm "message about abortion alternatives could have resonated with me" enough so that she might not have had an abortion.

Molly White had two abortions. Before her first abortion, she said that she asked the clinic staff "about the abortion procedure and was told it was a

minor, safe procedure that would 'clean me out' and that it had the same discomfort level as a menstrual cycle." She said that the clinic staff answered her question with "lies and misinformation." Her abortion caused "continual bleeding, a damaged cervix, and uterine scarring," which led to "two stillborn children and a miscarriage." She believes that "[i]f someone had been outside of the clinic offering me help and information, talking face-to-face with me, I would have decided against having the abortion, which was the most regrettable decision of my life."

SUMMARY OF ARGUMENT

Amicae can testify to the difficulties of being in a crisis pregnancy, including the appearance of limited options and consequent feelings of hopelessness. However, they also believe that these difficulties are exacerbated by incomplete and misleading information about the abortion procedure, fetal development, and abortion alternatives, and greatly regret their decisions to have an abortion. The law upheld by the Court of Appeals, MASS. GEN. LAWS ch. 266, § 120E 1/2 (2007) ("the Act"), effectively prevents other women in a similar situation from receiving this information by dramatically limiting the speech of individuals offering abortion alternatives, while leaving ample communication channels for abortion proponents. This discrimination undermines the very essence of the First Amendment by silencing one side

of what may be the most profound and most deeply emotional political and moral debate of our day.

This Court has held repeatedly that "[i]t is the purpose of the First Amendment to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail, rather than to countenance monopolization of that market. . . ." *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367, 390 (1969) (citations omitted). Without a vibrant and functioning marketplace, society loses "the best test of truth," which is "the power of [a] thought to get itself accepted in the competition of the market." *United States v. Alvarez*, 132 S. Ct. 2537, 2550 (2012). By misapplying this Court's precedents, the decision below undermines the marketplace of ideas by failing to adequately scrutinize a content-based regulation of speech. It also restricts both the ability of speakers to communicate their message, and of willing listeners like *amicae* to access critical information. The decision below is the most extreme decision in a line of lower court cases that have misinterpreted this Court's decision in *Hill v. Colorado*, 530 U.S. 703 (2000), and is in conflict with the Ninth Circuit's decision in *Hoye v. City of Oakland*, 653 F.3d 835 (9th Cir. 2011).

This curtailment of the First Amendment has very destructive consequences. Forced further away from their intended audience by ever-expanding buffer zones, pro-life educators and counselors, however peaceful, civil and compassionate, are becoming increasingly precluded from delivering their message:

a message that would have been welcomed by audience members such as *amicae*. These buffer zone laws make off-limits to these speakers the only plot of land on earth where their message has any plausible likelihood of achieving its desired effect.

Because the reasoning of the Court of Appeals poses a grave threat to the First Amendment, this Court should intervene and set clear limits on *Hill*'s reach.

ARGUMENT

I. The Act, As-Applied, Is Viewpoint-Based Because It Exempts Clinic Agents And Employees From The Buffer Zone

In analyzing a government restriction on speech, the first question is whether that restriction is content- or viewpoint-based, subjecting the restriction to strict scrutiny, or content-neutral, triggering less exacting scrutiny. *Compare United States v. Playboy Entm't Group*, 529 U.S. 803, 813 (2000) (applying strict scrutiny), *with Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989) ("the government may impose reasonable restrictions on the time, place, or manner of protected speech, provided the restrictions 'are justified without reference to the content of the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information'" (quoting *Clark v.*

Community for Creative Non-Violence, 468 U.S. 288, 293 (1984))). *Hill v. Colorado* does not relieve the Court of performing this analysis by presuming that all buffer zone laws are content- and viewpoint-neutral. On the contrary, *Hill*'s holding of content neutrality was conceded by the parties, and its commentary on viewpoint discrimination was highly fact-based. The Court of Appeals improperly applied *Hill* to the Act as the facts of the Colorado law at issue in *Hill* are in stark contrast with those in the instant case.

In discussing the content-neutrality of the statute in *Hill* this Court was careful to limit its commentary to the specific facts of that case. The Court found significant the fact that the statute only minimally burdened the delivery of the pro-life counselors' message. The statute in *Hill* allowed for a "normal conversational distance," while allowing individuals to either remain in place and pass out literature, or come within 8 feet of clinic patients. *Hill*, 530 U.S. at 726-27 (quoting *Schenck v. Pro-Choice Network*, 519 U.S. 357, 377 (1997)). Had the statute either imposed a significantly larger bubble, or exempted a particular viewpoint from the bubble's jurisdiction, this Court would have likely reached a different conclusion.[2]

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[2] This supposition is especially probable given the reasoning of the four-Justice concurrence:

> "[T]he reason for [the statute's] restriction on approaches goes to the approaches, not to the content of the speech. . . . [T]he content of the message will survive on

(Continued on following page)

The Court of Appeals' finding of facial neutrality can only be credited at the most superficial level. While in theory an exemption for clinic agents and employees could be neutral, in reality those exempted parties consistently favor abortion ideologically and have strong pecuniary incentives for doing so. Indeed, as the law is written, the exemption for clinic employees and agents is for speech *in the scope of their employment or agency*, which necessarily presents only a favorable perspective toward abortion. This is in stark contrast to the law upheld in *Hill*, which blocked pro-choice and pro-life speech equally. *See Hill*, 530 U.S. at 725 ("The statute is not limited to those who oppose abortion. It applies to all 'protest,' to all 'counseling,' and to all demonstrators whether or not the demonstration concerns abortion, and whether they oppose or support the woman who has made an abortion decision. That is the level of neutrality that the Constitution demands").

Clinic representatives need not stand in front of clinics to inform pregnant women of the precise scope of their abortion rights or answer questions about the procedure itself, the safety precautions taken, or their view of its potential after-effects. Such information is readily available on the other side of the clinic's

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> any sign readable at eight feet and in any statement audible from that slight distance. Hence, the implausibility of any claim that an anti-abortion message, not the behavior of the protestors, is what is being singled out."

Hill, 530 U.S. at 738 (Souter, J., concurring).

doors. But pro-life advocates know that if they are unable to deliver their message outside the clinic, prospective clients, like many of the *amicae*, will be unlikely to receive detailed information about the stage of development of their unborn babies, the details of the abortion procedure, or the risks of long-lasting emotional, psychological and even physical harm.[3] The consequences of being prevented from communicating this type of information are immediate and irreversible; there is no second-best result and there are no second chances. *See Hill*, 530 U.S. at 792 (Kennedy, J., dissenting) ("Here the citizens who claim First Amendment protection seek it for speech which, if it is to be effective, must take place at the very time and place a grievous moral wrong, in their view, is about to occur").

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[3] For example, according to the Planned Parenthood website, "Most women ultimately feel relief after an abortion. . . . Serious, long-term emotional problems after abortion are about as uncommon as they are after giving birth." Planned Parenthood, In-Clinic Abortion Procedures, http://www.plannedparenthood.org/health-topics/abortion/in-clinic-abortion-procedures-4359.htm (last visited Sept. 9, 2013). Empirical research, however, raises serious doubts about the factual accuracy of such a statement. *See*, *e.g.*, David M. Fergusson, et al., *Abortion in Young Women and Subsequent Mental Health*, 47 J. CHILD PSYCHOL. & PSYCHIATRY 16 (2006) (finding a direct correlation between a woman's history of abortion and her risk of anxiety, depression, suicide, drug dependence, and poor mental health). The testimony of the *amicae* also tends to illustrate that Planned Parenthood's position is not representative of all women.

A viewpoint-based exemption to a neutrally-phrased law, like the exemption from the Act for clinic representatives, is equivalent to a viewpoint-based limit on speech. *See*, *e.g.*, *Carey v. Brown*, 447 U.S. 455, 460-61 (1980) (holding a general prohibition on picketing except by those involved in a labor dispute to be viewpoint-discriminatory on its face); *see also Hoye*, 653 F.3d at 854 (rejecting facial challenge to abortion clinic buffer zone statute, while upholding challenge as-applied, due to an unconstitutional "content-discriminatory enforcement policy" that effectively exempted clinic representatives from the law). Furthermore, the analysis of whether a speech limitation is neutral, even facially, must go deeper than the Court of Appeals' cursory analysis and address the logical effects of the law. *See Sorrell v. IMS Health Inc.*, 131 S. Ct. 2653, 2663 (2011) (the "inevitable effect of a statute on its face may render it unconstitutional" (quoting *United States v. O'Brien*, 391 U.S. 367, 384 (1968))).

But, even if the Court of Appeals is correct that the Act is neutral on its face, it is clearly viewpoint-based as-applied, and thus should be subject to strict scrutiny. As Petitioners allege in their complaint, clinic representatives "surround, cluster, yell, make noise, mumble, and/or talk loudly to clinic clients for the purpose of disrupting or drowning out pro-life speech and thwart Plaintiffs' efforts to distribute literature." *McCullen v. Coakley*, 708 F.3d 1, 19-20 (1st Cir. 2013). Petitioners' complaint also alleges that "clinic 'employees and/or agents stand idly on the

public sidewalks and streets inside the [buffer] zone' – sometimes smoking, speaking with each other or on mobile phones, or drinking coffee – 'even when clinic clients are not present.'" *Id.* at 20. Petitioners explain that the law precludes "up-close, gentle conversations, accompanied by smiles and eye contact" requiring "shorter, louder, and less personal exchanges" that are ineffective and render Petitioners "untrustworthy." *Id.* at 30. The decision below even admits that the law "curtails the plaintiffs' ability to carry on gentle discussions with prospective patients at a conversational distance, embellished with eye contact and smiles," *id.* at 31, and that "patients are not readily accessible to the plaintiffs [in Worcester and Springfield]," *id.* at 33. Petitioners' testimony comports with a number of *amicae*'s declarations, which recount how such strained attempts at communication would have been off-putting to the pregnant woman,[4] whereas a normal conversation could have made a difference in her ultimate choice.[5]

In this sense, the decision below conflicts squarely with that of the Ninth Circuit in *Hoye*, which held a buffer zone to be content-based as-applied because the City of Oakland selectively enforced its statute against pro-life counselors but not clinic representatives. *See* 653 F.3d at 851-52 ("The City's policy of distinguishing between speech that facilitates access

[4] *See infra* note 6.

[5] *See infra* note 15.

to clinics and speech that discourages access is not content-neutral. It is the epitome of a content-based speech restriction . . . [To do so is] necessarily to distinguish on the basis of substantive content").

The Court should resolve this conflict and clarify that the Colorado statute at issue in *Hill* was treated as viewpoint- and content-neutral only because its restrictions did not significantly burden speech of any viewpoint or subject matter in front of abortion clinics. As *Hill* explained, "the comprehensiveness of the statute is a virtue, not a vice, because it is evidence against there being a discriminatory governmental motive." *Hill*, 530 U.S. at 731.

The Massachusetts statute, by contrast, should be declared viewpoint-discriminatory both on its face and as-applied. Unlike in *Hill*, this statute does not apply to all health facilities such as hospitals. *See Hill*, 530 U.S. at 715. Moreover, the Massachusetts legislature specifically targeted only the public property surrounding abortion clinics – where sidewalk counselors have long offered information and support to pregnant women considering abortions – and created such vast no-speech zones that pro-life counselors are for all practical purposes entirely precluded from delivering their message to their intended audience.

Such an expansive speech restriction, applied only to individuals on one side of the abortion debate, is far outside the bounds of *Hill*'s viewpoint-neutrality test and should be invalidated.

II. The Decision Below Ignores The Well-Established First Amendment Right Of Women, Such As *Amicae Curiae*, To Receive Information About Abortion

In affirming the constitutionality of the Act, the Court of Appeals undermined the ability of Massachusetts women to make fully informed choices about abortion. The decision below, unprecedented in its breadth and scope, ignores important First Amendment principles laid down by this Court concerning the right to receive information. Because the rights at stake here are crucial to the purpose of the First Amendment, and because – as the stories of the *amicae* demonstrate – the consequences of their abridgement can be severe, this Court should clarify this right's boundaries.

"It is now well-established that the Constitution protects the right to receive information and ideas." *Stanley v. Georgia*, 394 U.S. 557, 564 (1969); *see also State Bd. of Pharmacy v. Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748, 756-57 (1976). The purpose of the First Amendment is to ensure that civil society develops a marketplace of ideas so that the truth may be found. *See Sorrell*, 131 S. Ct. at 2674 (recognizing the constitutional "importance of maintaining a free marketplace of ideas, a marketplace that provides access to 'social, political, esthetic, moral, and other ideas and experiences'" in order to allow the public to "freely choose a government pledged to implement policies that reflect the people's informed will" (quoting *Red Lion*, 395 U.S. at 390)).

Creating a true marketplace of ideas requires protecting the rights of both speakers and listeners.

Just as a speaker's First Amendment right entails a certain level of access to an audience, *see Kovacs v. Cooper*, 336 U.S. 77, 87 (1949) ("[t]he right of free speech is guaranteed every citizen that he may reach the minds of willing listeners and to do so there must be opportunity to win their attention"), so does a listener's right include the right to receive information, *see Martin v. Struthers*, 319 U.S. 141, 143 (1943) (The First Amendment "embraces the right to distribute literature and necessarily *protects the right to receive it*") (emphasis added) (citations omitted). A law that removes a listener's reasonably unfettered ability to know what information is available renders this right practically meaningless, impermissibly burdening the listener's First Amendment rights. *See Lamont v. Postmaster General*, 381 U.S. 301, 308 (1965) (Brennan, J., concurring) (citations omitted) ("The dissemination of ideas can accomplish nothing if otherwise willing addressees are not free to receive and consider them. It would be a barren marketplace of ideas that had only sellers and no buyer").

Nowhere is a robust supply of information more important than in difficult and crucial decisions about abortion, and *amicae* provide clear examples of the profound effects that receipt of information can have on individual choices. This Court has long recognized the importance of women making educated decisions about abortion. *See*, *e.g.*, *Planned Parenthood of Cent. Mo. v. Danforth*, 428 U.S. 52, 67

(1976) ("The decision to abort, indeed, is an important and often a stressful one, and it is desirable and imperative that it be made with full knowledge of its nature and consequences"). Women have the right to receive information about abortion from counselors with multiple perspectives on the issue, including those who have no economic interest in abortion, without interference from the state.

The strikingly broad decision of the Court of Appeals ignores the burden the Act places on the rights of women entering reproductive health centers. The Act prohibits a woman from having a conversation, receiving a leaflet, or engaging in any type of communication except with clinic employees and agents within a 35-foot fixed buffer zone in all directions. Unlike the previous version of the statute, which contained an exception for consensual communication, *see* MASS. GEN. LAWS ch. 266, § 120E 1/2(B) (2000), the current version of the statute prohibits all communication within the buffer zone, *see* MASS. GEN. LAWS ch. 266, § 120E 1/2(B) (2007). The Act applies to invited and uninvited approaches alike, regardless of how peaceful and welcomed the speech is. Even if a woman entering a clinic affirmatively chooses to communicate with one of the Petitioners, Petitioner could not enter the buffer zone to communicate with her.

By restricting consensual speech, the Act violates the right of women to receive information about abortion. In *Hill v. Colorado*, this Court upheld a buffer zone law that contained an exception for

consensual speech, and indicated that a law without such an exception would raise independent constitutional issues. In upholding that eight-foot floating buffer zone law, this Court was careful to limit its reasoning only to cases where the statute at issue strikes "an acceptable balance between the constitutionally protected rights of law-abiding speakers and the interests of *unwilling* listeners. . . ." 530 U.S. at 714 (emphasis added). This Court repeatedly emphasized the significance of the Colorado law's exception for consensual speech: "it is . . . important . . . to recognize the significant difference between state restrictions on a speaker's right to address a *willing* audience and those that protect listeners from unwanted communication." *Id.* at 715-16 (emphasis added). Despite *Hill*'s repeated admonitions, the Court of Appeals failed to consider the burden the Massachusetts statute placed on the First Amendment right of willing listeners to receive information about abortion procedures. But Massachusetts has no legitimate interest in prohibiting willing listeners from communicating with speakers inside the buffer zone.

It is no answer to say that the women approaching an abortion clinic could walk outside the 35-foot radius created by the ordinance to talk to pro-life counselors. Counselors attempting to communicate with women entering a reproductive health center are effectively prevented by this law from peacefully initiating communications in a conversational tone. From 35 feet away, a conversational voice will be

wholly drowned out by the loud background noise of city streets, even without the intentional attempts by clinic employees and agents to interfere with speech of pro-life counselors attested to by Petitioners. *See McCullen*, 708 F.3d at 19-20 ("plaintiffs aver that 'pro-choice advocates . . . surround, cluster, yell, make noise, mumble, and/or talk loudly to clinic clients for the purpose of disrupting or drowning out pro-life speech and thwart Plaintiffs' efforts to distribute literature'").

If individuals like Petitioners are prohibited from attempting to approach to initiate a conversation, women like *amicae* will likely never discover that there are people willing to have a calm and rational conservation with them about the consequences of abortion. *Amica* Esther Ripplinger, for example, recalls entering a clinic for her abortion and only being confronted with "people with pictures of dead babies shouting," saying she viewed them "as not loving and caring for my needs." She maintains that "[i]f someone had given me information and alternatives as I walked into the clinic, I would not have made this choice" to have an abortion. Her experience illustrates the inadequacy of the alternatives available to individuals like Petitioners under the Act. Similarly, even though *Amica* Susan Swander wanted to hear about alternatives to abortion, she would not have responded to information unless delivered in a caring, personal way: "Someone outside a clinic with a bullhorn would have made me angry – if I had heard someone screaming at me during my crisis, I

would have probably yelled right back." Instead, she stated that a "message about abortion alternatives could have resonated with me, but I needed someone to talk to me in a calm tone of voice, or a gentle touching of my elbow to ask if they could talk to me."[6]

Further, there is no other source of neutral information about abortion readily available to women who visit reproductive health facilities in Massachusetts. Unlike some other states, Massachusetts reproductive health centers are not required to provide information about the consequences of abortion. *See*, *e.g.*, OHIO REV. CODE ANN. § 2317.56(B)-(C); 18 PA. CONS. STAT. ANN. § 3208(a)(2); GA. CODE ANN. § 31-9A-4(a)(2). Moreover, given the pecuniary interest

[6] *See also*, *e.g.*, Declaration of Nona Ellington ("Although I would have been open to hearing about abortion alternatives, I would have ignored people yelling at me from a distance and would have only felt more shame"); Declaration of Paula Lucas-Langhoff ("Even though pro-life counselors would have helped me, I would not have responded to someone that was 35 feet away from the clinic, shouting at me or using a bullhorn. In my crisis situation I was so focused in my fear that I would not have been able to see a sign being held that far away . . . I know that I would not have heard anyone physically at a distance of 35 feet"); Declaration of Jean Pickett ("I did not see pro-life counselors outside of the clinic either time. If I had seen someone protesting in a Grim Reaper costume, I would have thought they should be locked up. That type of protesting is counterproductive and would have only made me become more firmly pro-choice"); Declaration of Patti Smith ("There were no sidewalk counselors outside the clinics for either of my abortions. If there had been people there screaming and holding pictures of aborted babies, I would have walked right by them. If you yell, scream, and holler, that's not going to do anything").

reproductive health-care clinics have in providing abortions, it is eminently sensible to maintain a healthy skepticism regarding the objectivity and forthrightness of clinic personnel when advising patients about the nature of the abortion procedure and its potential risks.

Amicae insist that they needed information and either did not get it from clinic personnel, or were provided with misleading information. For example, several *amicae* were told incorrectly that their abortion would not hurt,[7] causing them to be unprepared for an intensely painful procedure that left several amicae incapacitated or even hospitalized for days.[8] *Amica* Esther Ripplinger described it as "excruciating pain" that left her "gripping for my life, feeling the sting of death in the most tender part of my body as

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[7] *See*, *e.g.*, Declaration of Cindy Adams ("They had told me that it would be quick and painless, and that I would be back to my normal self in a day"); Declaration of Esther Ripplinger ("the woman told me I would feel 'minor discomfort' and that 'most girls just feel a pinch,' gesturing on her arm"); Declaration of Molly White ("I then asked about the abortion procedure and was told it was a minor, safe procedure that would "clean me out" and that it had the same discomfort level as a menstrual cycle").

[8] *See*, *e.g.*, Declaration of Cindy Adams ("I had the abortion and was shocked at how painful it was"); Declaration of Paula Lucas-Langhoff ("I stayed 10 days in AZ because I was not well enough to leave [because of the abortion] – and I lost my job because they did not know where I was and I was too weak to call"); Declaration of Madonna Medina ("The abortion was the most horrifying and painful experience of my life").

my baby was sucked out of me with a vacuum device." *Amica* Molly White testified to her surprise when she learned that infertility or difficulty carrying a pregnancy to term were possible side effects of abortion.[9]

Amicae also took issue with the clinic's description of their babies as "only a blob of tissue," and as a result were shocked to later learn that babies at the stage when they had their abortion had hands, feet, and a heartbeat.[10] Others commented that they were not told of options other than having an abortion,

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[9] *See* Declaration of Molly White ("I then asked about the abortion procedure and was told it was a minor, safe procedure. . . . My abortions . . . gave me two stillborn children and a miscarriage").

[10] *See*, *e.g.*, Declaration of Cindy Adams ("I learned that a heartbeat can be detected as early as 18 to 22 days after conception – younger than my baby when I had my abortion. I was so shocked to learn this I cried for a couple of hours. Obviously this medical fact was not shared with me by the abortion clinic I went to"); Declaration of Esther Ripplinger ("I asked the [abortion clinic employee] about the baby's stage of development. 'It's only a blob of tissue,' she said"); Declaration of Nona Ellington ("[Planned Parenthood] told me that at this stage of only 5 weeks of pregnancy, 'it' was only a blob of tissue"); Declaration of Paula Lucas-Langhoff ("On the first day, I asked for more information, but was instead given misleading information about the abortion. I was told by the clinic counselor that the baby was only a blob of tissue and a mass of cells. . . . [I] did not know that my child was basically fully formed, had a heartbeat, and reacted to pain"); Declaration of Heather Shearfield ("[A] lady [from the abortion clinic] assured me that this was 'tissue' and not a life or even a child"); Declaration of Molly White ("I did want information so when I arrived at the clinic I asked about the fetal development of my baby (6-8 weeks) and was told it was just a tiny blob of tissue").

although they would have welcomed information about resources and support for pregnant women.[11] *Amica* Paula Lucas-Langhoff in particular testified that when she told the doctor at the clinic that she did not want an abortion, he berated her for wasting his time and bullied her into going through with the abortion.[12] Their experiences all illustrate the danger of leaving the abortion clinic and its agents as the

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[11] *See*, *e.g.*, Declaration of JM ("I didn't know where to go for help. I hadn't heard of a crisis pregnancy center, and didn't know of any maternity homes in my area"); Declaration of Jean Pickett ("Again, they provided me with no counseling and no other options"); Declaration of Esther Ripplinger ("I had an abortion because I did not receive life-affirming information when I asked for it . . . I was not made aware of the many community services available for pregnant women"); Declaration of Patti Smith ("I wish someone had simply said, 'Can I talk to you for a minute before you go in, because maybe there are options you haven't considered.' None of my friends was trying to dissuade me, and the abortion clinic didn't give me other options. I felt that I had no choice"); Declaration of Susan Swander ("No clinic employee ever mentioned alternatives to abortion to me. . . . I wish there had been someone there to tell me about my options before I had my abortions"); Declaration of Molly White ("Neither did I have any information about abortion alternatives or crisis pregnancy centers where I could go for information and help").

[12] *See* Declaration of Paula Lucas-Langhoff ("When I finally got up the courage to tell the doctor and nurse that day that I did not want an abortion, the doctor yelled at me, and said that I was 'wasting his time.' . . . I pleaded with them at first, in tears, but finally submitted to the doctor, because I had grown up in a household of abuse, and was not equipped to defend myself without anyone else on my side"); *see also* Declaration of JM ("The abortion workers pressured me to go through with the abortion, even though I expressed doubt to them").

sole purveyors of information to women in such a vulnerable situation.

While the First Amendment does not require that states provide women with information about fetal development or the alternatives to and potential side-effects of abortion, it does protect those third-party entities that want to share that information. Because Massachusetts does not require the dissemination of this information and because abortion clinics themselves are not neutral sources of information, it is especially crucial that the government not impede third parties, such as Petitioners, from making this information available to women considering an abortion.

The Court should address these issues because serious consequences result when women decide to terminate their pregnancies without full information. The right to receive information about abortion should receive special attention because of "the risk that a woman may elect an abortion, only to discover later, with devastating psychological consequences, that her decision was not fully informed." *Planned Parenthood of Southeastern Pa. v. Casey*, 505 U.S. 833, 882 (1992) (plurality opinion). As Justice Kennedy observed in his dissent in *Hill*, there is "[n]o better illustration of the immediacy of speech, of the urgency of persuasion, of the preciousness of time," 530 U.S. at 792, than the abortion protester seeking to inform a vulnerable and often distraught young woman of the true nature of, and alternatives to, the irrevocable decision she is about to make.

The stories of *amicae* demonstrate that some women experience deep regret when they choose to abort a child without knowing all the facts. Several *amicae* attest they have suffered psychologically and, in some cases, physically, as a result of abortion decisions made with incomplete, misleading, or false information.[13]

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[13] *See*, *e.g.*, Declaration of Cindy Adams ("I became promiscuous and began drinking heavily, doing anything to help dull the pain and shame that I felt. I also did what I could to prevent myself from becoming pregnant, as I felt I was unworthy of having another child. I prayed that God would let me die in an accident so I would not have to continue feeling so much pain"); Declaration of Marlynda Augelli ("I was riddled with guilt and remorse and there was nothing I could do to stop those feelings. . . ."); Declaration of Nona Ellington ("I spent many years in denial and emotional numbness, without much regard for living"); Declaration of JM ("My abortion brought devastating consequences. Seven months after my abortion, I spent 19 days in the psychiatric ward of a hospital with major depression, suicidal thoughts, and psychosis. For nearly 25 years, I've struggled with chronic anxiety, depression, and feeling worthless"); Declaration of Madonna Medina ("I did anything to dull the pain – turning to drinking and drug use – and felt like I had lost my sanity; all it took to lose control was hearing a baby cry or children sing. I endured constant thoughts of suicide"); Declaration of Jean Pickett ("My abortions did serious damage to my mental and physical health. They took a toll on my friendships and romantic relationships, and caused emotional instability, anger, and addiction"); Declaration of Heather Shearfield ("From that moment on I became the hardest, meanest individual I could be, in an attempt to stop the hurting and grieving. . . . I had drank and used drugs prior to this, however now I meant business. I pursued intoxication with a desperation that I didn't recognize in myself. And this lasted for the next 24 years. . . . The desperation, depravity, remorse,

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The experiences of *amicae* are representative of the experiences of many women. Empirical research on the psychological effects of abortion suggests that a woman who has undergone an abortion may face a number of difficulties. There is a direct correlation between a woman's history of abortion and her risk of anxiety, depression, suicide, drug dependence, and poor mental health. *See* David M. Fergusson et al., *Abortion in Young Women and Subsequent Mental Health*, 47 J. CHILD PSYCHOL. & PSYCHIATRY 16 (2006). A number of other studies have also found similar correlations.[14]

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regret and shame I lived through I cannot even begin to describe"); Declaration of Patti Smith ("After my first abortion, I became increasingly promiscuous, drank more, and was hell-bent on self-destruction. . . . I also punished myself for the abortions, by having a tubal ligation and thus surgically removing my ability to have a child. Fifteen years ago, my perceived depravity made me incapable of looking myself in the mirror, so I believed suicide was the only alternative"); Declaration of Susan Swander ("I suffered for 36 years from depression, guilt, shame, alcoholic drinking, drug use, promiscuity, overeating, and deep-seated anger"); Declaration of Molly White ("My abortions caused me continual bleeding, a damaged cervix, and uterine scarring, which gave me two stillborn children and a miscarriage").

[14] *See*, *e.g.*, M. Gissler et al., *Injury deaths*, *suicides and homicides associated with pregnancy*, *Finland 1987-2000*, 15 EUROPEAN J. PUB. HEALTH 459 (2005) (suicide); P.K. Coleman, *Abortion and mental health: quantitative synthesis and analysis of research published 1995-2009*, 199 BRITISH J. PSYCHIATRY 180-86 (2011) (mental health); W. Pedersen, *Childbirth*, *abortion and subsequent substance use in young women: a population based longitudinal study*, 102 ADDICTION 1971-78 (2007) (drug use).

The stories of the *amicae* demonstrate that these consequences can, in some cases, be prevented if the state merely steps out of the way and allows the kind of rational moral discussion protected by the First Amendment to occur. Several *amicae* assert that they would not have chosen to have an abortion had they received accurate information.[15]

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[15] *See*, *e.g.*, Declaration of Cindy Adams ("If [pro-life counselors] had been there to share the truth, then I would have been blessed with the opportunity to see my only biological child"); Declaration of Marlynda Augelli ("I did not receive . . . any information . . . about the risk of physical and psychological side effects. . . . If I had heard the risks beforehand, I could have made an educated decision and I would not have aborted my child"); Declaration of Nona Ellington ("If someone would have approached me to help me and give me valuable information as I was walking into the abortion clinic, I probably would not have had an abortion. . . . I just never knew that abortion might not have been my best option"); Declaration of Paula Lucas-Langhoff ("That night, the night before the abortion, I wandered the neighborhood looking for someone, anyone that I could talk to who could help. . . . I would give anything to change the past. If pro-life counselors had been outside the abortion clinic that evening, my child would be alive today, but I was too young and frightened to know what to do. . . . My baby died because I was alone and had no one to help me"); Declaration of JM ("What I really wanted and needed in the midst of my crisis, was thorough and accurate information. Instead, my choice wasn't a real choice, because it wasn't fully informed"); Declaration of Esther Ripplinger ("If someone had given me information and alternatives as I walked into the clinic, I would not have made this choice"); Declaration of Patti Smith ("There were no sidewalk counselors outside the clinics for either of my abortions. . . . [I]f there was someone showing me love and compassion, I think I would have taken a different path. . . . [T]he abortion clinic didn't give me other options. I felt that I had no

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Amicae's experience is consistent with that of Petitioners. For example, Petitioner McCullen attests to persuading around 80 women to choose to continue their pregnancies, while Petitioner Zarrella recounts the same for more than 100 women. Pet. 14-15. These stories illustrate the impact free speech can have on a woman's decision-making process. Information about abortion can have a life-altering effect, and the government should not deny a woman the opportunity to receive it.

III. The Act Violates The First Amendment By Leaving Sidewalk Counselors Without An Adequate Channel To Communicate Their Messages

The decision of the Court of Appeals also puts an impermissible burden on the First Amendment rights of would-be sidewalk counselors and all individuals, including *amicae curiae* and Petitioners, who wish to speak peacefully to women visiting reproductive

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choice"); Declaration of Susan Swander ("I wish there had been someone to tell me about my options before I had my abortions. . . . If someone had given me correct information about my babies, post abortion trauma, and abortion alternatives, I truly believe I might have made different choices – my 3 children might be alive today"); Declaration of Molly White ("I believe my children would be alive today if there had been sidewalk counselors in front of the clinics where I went to have an abortion. If someone had been outside of the clinic offering me help and information, talking face-to-face with me, I would have decided against having the abortion, which was the most regrettable decision of my life").

health clinics. Even if the Court of Appeals is correct that the Act is a time-place-manner restriction, it is a restriction that clearly fails to leave open alternative channels of communication as required by *Ward v. Rock Against Racism*, 491 U.S. 781, 802 (1989). In upholding the Act, the Court of Appeals assures us that Petitioners' "voices are audible" and placards are visible from 35 feet away, while reminding us that Petitioners may still pray, use sound amplifiers, "congregate in groups outside a clinic" "employ symbols," "wear evocative garments," and "don costumes." *McCullen*, 708 F.3d at 31. This excises from the First Amendment the right to engage in rational discourse, preserving only a vulgar right to shout at distant passers-by. The *Hill* Court, on the other hand, found significant that Colorado's 8-foot buffer zone still "allows the speaker to communicate at a 'normal conversational distance.'" *Hill*, 530 U.S. at 726-27 (quoting *Schenck*, 519 U.S. at 377). Most abortion counselors are understandably not interested in shouting slogans in the vicinity of an abortion clinic; they instead aim to discuss the dangers of abortion with those contemplating the decision to have one.[16] Some ideas cannot be shared through simplistic T-shirt slogans or shouted over bullhorns.

Likewise, the Court of Appeals' insistence that "as long as a speaker . . . [may] reach her intended

[16] *Amicae*'s declarations support Petitioners' belief that their message is less effective when delivered only through shouting at women from a distance. *See supra* note 4.

audience, the Constitution does not ensure that she always will be able to employ her preferred method of communication," is problematic on at least two levels. *McCullen*, 708 F.3d at 31. First, this Court's discussion of handbilling in both *Schenck* and *Hill* suggests that there is some limited right to engage in certain forms of communication that lie "at the heart of the First Amendment," and that merely offering alternate means of communication is therefore not necessarily an adequate alternative. *Schenck*, 519 U.S. at 377; *see also Hill*, 530 U.S. at 727 ("The burden on the ability to distribute handbills is more serious because it seems possible that an 8-foot interval could hinder the ability of a leafletter to deliver handbills to some unwilling recipients," explaining that handbillers may still "stand[ ] near the path of oncoming pedestrians" to hand out their material instead). Indeed, this Court has described "handing out leaflets in the advocacy of a politically controversial viewpoint" as "the essence of First Amendment expression," adding that "no form of speech is entitled to greater constitutional protection. . . ." *McIntyre v. Ohio Elections Comm'n*, 514 U.S. 334, 347 (1995).

This Court also suggested in *Hill* that the availability not of alternate means of speaking altogether, but of handbilling in particular, even proffering handbills to unwilling recipients, was important. Thus it noted that a speaker offering handbills could still "stand[ ] near the path of oncoming pedestrians and proffer[ ] his or her material, which the pedestrians can easily accept." 530 U.S. at 727. Under the

Act, handbilling would be rendered virtually impossible because of the distance counselors are required to stand from entrances, putting them well outside the "path of oncoming pedestrians." *Id.*

The Court of Appeals' hasty dismissal of a speaker's right to use her preferred method of communication further ignores the fact that some communication methods do carry unique features, as this Court taught in *City of Ladue v. Gilleo*, 512 U.S. 43 (1994). Just as a lawn sign is a "venerable means of communication that is both unique and important," *City of Ladue*, 512 U.S. at 54, so normal conversation carries a particular message of caring and personal respect that shouting or distant picketing with signs or costumes could not convey.

While on its face the Act may appear to merely forbid certain *means* of communication by banning speech by non-clinic employees or agents within a 35-foot radius, as applied it can prevent *all* communications about abortion alternatives. For example, the Court of Appeals acknowledged that patients at both the Worcester and Springfield clinics were "not readily accessible to the plaintiffs" due to the location of clinic entrances in relation to the buffer zone. *McCullen*, 708 F.3d at 33. The practical difficulty – and at times impossibility – of initiating conversation with women squarely conflicts with *Hill*, which underscored that "the First Amendment protects the right of every citizen to 'reach the minds of *willing* listeners and to do so there must be opportunity to win their attention.'" *Hill*, 530 U.S. at 728 (quoting

Kovacs, 336 U.S. at 87) (emphasis added). The question, ultimately, is whether the First Amendment protects merely the right to cheer for one's own team or whether it protects the right to a fair opportunity for persuasion through the free exchange of ideas. We respectfully ask this Court to re-affirm the latter protection.

Finally, by forbidding *all* non-clinic-based speech in a fixed area, the Act "burden[s] substantially more speech than is necessary to further the government's legitimate interes[t]" in promoting public health and safety. *Ward*, 491 U.S. at 799. This intrusion is not necessary to achieving their statutory goal of increasing "public safety at reproductive health care facilities." 2007 Mass. Adv. Legis. Serv. 155. In fact, by the time of the law's passage in 2007, there had been no adjudicated violation of Massachusetts' previous less restrictive buffer zone law, or even from 2000 to 2007, "prosecution during that period under any state, federal or local law directly targeting violence, obstruction, intimidation, trespass, or harassment at abortion clinics in Massachusetts." Pet. 6.

While the *Hill* Court did state that a speech restriction "may satisfy the tailoring requirement even though it is not the least restrictive or least intrusive means of serving the statutory goal," 530 U.S. at 726, it did not eliminate this tailoring requirement altogether. *Hill* explains that a time, place, or manner restriction must be "narrowly tailored to serve the government's legitimate, content-neutral interests." *Hill*, 530 U.S. at 726 n.32 (quoting *Ward*,

491 U.S. at 798). It pointed specifically to the way that speech was still possible under the Colorado statute at issue:

> the 8-foot restriction on an unwanted physical approach leaves ample room to communicate a message through speech. Signs, pictures, and voice itself can cross an 8-foot gap with ease. If the clinics in Colorado resemble those in *Schenck*, demonstrators with leaflets might easily stand on the sidewalk at entrances (without blocking the entrance) and, without physically approaching those who are entering the clinic, peacefully hand them leaflets as they pass by.

530 U.S. at 729-30. The Court of Appeals, on the other hand, completely failed to address how a rule excluding those silently distributing leaflets, standing in place with signs, or engaging in consensual conversations, from a much larger fixed zone is remotely related to – let alone tailored to – the asserted governmental interest in public safety.

The Court of Appeals also misread *Hill* by failing to take into consideration a crucial caveat to this Court's discussion of narrow tailoring: that the lower bar for narrow tailoring only applied to a "content-neutral regulation [that] does not entirely foreclose any means of communication." *Hill*, 530 U.S. at 726. Even if the Court of Appeals is correct that the Act is content-neutral, it clearly forecloses certain means of communication, including handbilling as discussed

above, and thus is materially different from the type of regulation discussed in *Hill*.

CONCLUSION

For the foregoing reasons, as well as those expressed in Petitioners' brief on the merits, *Amicae* request that this Court reverse the judgment of the Court of Appeals.

Respectfully submitted,

CARRIE SEVERINO
Counsel of Record
AMMON SIMON
JUDICIAL EDUCATION PROJECT
722 12th St. NW
Fourth Floor
Washington, D.C. 20005
(571) 357-3134
carrie@judicialnetwork.com

Counsel for Amicae Curiae

Dated: September 13, 2013

APPENDIX

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Declaration of Cindy Adams

I **CINDY ADAMS**, declare based on personal knowledge as follows:

1. I am over the age of 18 and competent to testify.

2. I had an abortion in 1985. I was pro-choice then and saw my child as only a potential life.

3. When I became pregnant, my boyfriend told me it wasn't the right time for us to have a child, and there would be plenty of time for us to have a family. I agreed without putting any thought into this decision because I believed it was not yet a baby. I was barely 6 weeks pregnant, and had no physical reasons to know that anything was going on inside my womb. The abortion clinic's counseling consisted of telling me that an abortion was only medically doing what your body naturally does every month and asking whether this was what I wanted to do.

4. I had the abortion and was shocked at how painful it was. They had told me that it would be quick and painless, and that I would be back to my normal self in a day. I spent the next couple of days on the couch crying from pain and from a sense of depression. I felt more shame and fear of someone discovering what I had done than I had felt about someone discovering that I had premarital sex and had gotten pregnant. I didn't understand what was happening to me. I convinced myself that it would pass and pretended life was normal and happy. About eight months later I had a dream where I saw my baby boy.

I was holding him in my arms, and we were lovingly gazing at each other. He was so beautiful. When I awoke, I was convinced I had just seen my son.

5. My life from this point was filled with destructive behavior. As is normally the case, the father and I did not stay together. I became promiscuous and began drinking heavily, doing anything to help dull the pain and shame that I felt. I also did what I could to prevent myself from becoming pregnant, as I felt I was unworthy of having another child. I prayed that God would let me die in an accident so I would not have to continue feeling so much pain. My shame kept me from seeking the help that I needed.

6. A couple of years after the abortion, I shared my abortion story with a friend and began the process of forgiving myself. Forgiveness came, but my shame stayed for 23 years. After a failed marriage and more drowning in despair, I turned to faith in 2007, and finally experienced forgiveness and freedom from shame. I began reading, researching, and getting as informed as possible about abortion. It was during this research that I learned that a heartbeat can be detected as early as 18 to 22 days after conception – younger than my baby when I had my abortion. I was so shocked to learn this I cried for a couple of hours. Obviously this medical fact was not shared with me by the abortion clinic I went to.

7. I will mourn my son and the lost opportunity of motherhood for the rest of my life as I have always wanted children. I know that my son, Francis McKinley,

knows that I love him and that I was blind to the truth of when life actually begins. In memory of my beloved son, I will not be silent about the truth that life begins at the moment of conception.

8. I now stand on the sidewalks outside our local abortion clinic in an attempt to prevent the killing of more innocent unborn babies and to save their parents from the pain and suffering I experienced, and from a lifetime of regret. Besides peacefully praying, we try to offer women fetal development information, support, and options that will not result in the killing of their child. If we are not there to provide this information, then their only source will be the deceptive Planned Parenthood website that attempts to minimize the number of women who regret their abortions and to whitewash the abortion procedure itself.

9. I wish that the loving people that I now stand with outside our local abortion clinic had been at the abortion clinic that I walked into over 28 years ago. If they had been there to share the truth, then I would have been blessed with the opportunity to see my only biological child.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 5th day of September, 2013

MADISON, ALABAMA

/s/ Cindy Adams

Declaration of Marlynda Augelli

I **MARLYNDA AUGELLI**, declare based on personal knowledge as follows:

1. I am over the age of 18 and competent to testify.

2. When I had my abortion I was a married woman and 26 years old. It was 1974 and legal abortion was very new in our society and at that time there was no information on the pro-life side, only this wonderful new "freedom to choose" that women were being given.

3. I went to a private doctor for my abortion. The doctor treated me well, very professionally and gently but gave me no information on the actual life of the child.

4. He was the "doctor" and I was his patient. He was an ob/gyn and delivered far more babies than he aborted at that time in his career. I'm sure if I was to meet the man today he would probably say he was duped like the patients he treated.

5. I wish that I had been told the truth because if I had known anything about the life of the unborn or if I had a clue at that time about childbirth and being a mother I would have never made the choice to end the life of my first child.

6. A few years later nothing had changed in my circumstances but my heart had changed. I became pregnant again and today I have a 26-year-old daughter who is now the mother of three children. I now

have 4 children and 3 grandchildren. I was one of the lucky ones. I was able to have other children. I had no physical side effects that I am aware of.

7. I did have tremendous psychological trauma, which ultimately was a factor in my divorce from my first husband the father of the child that wasn't one of the lucky ones. Today I speak out against abortion because I personally have experienced the aftermath and destruction of abortion on the family and society.

8. If given the choice again I would today have a thirty one year old child that I believe would have been a first born son. That child might have been the glue that would have kept my marriage and family together. He might have been the one to change the whole course of the history of our family.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 11th day of September, 2013

MT. JULIET, TN

/s/ Marlynda Augelli

Declaration of Nona Ellington

I **NONA ELLINGTON**, declare based on personal knowledge as follows:

1. I am over the age of 18 and competent to testify.

2. I had an abortion at age 15 and in the 10th grade. After being forced into sexual intercourse with my boyfriend, I realized after a few weeks that I was pregnant. My boyfriend and I had already broken up.

3. I went to a Planned Parenthood in Houston, TX to get a 'free' pregnancy test to confirm that I was pregnant. They told me that at this stage of only 5 weeks of pregnancy, 'it' was only a blob of tissue. They also suggested that I could have an abortion, since I was so young and still in school. I agreed. My sister and several friends at school all thought it was really 'no big deal, people do it all the time, especially since you're still in school,' and I thought it would be terrible to try to go to school pregnant.

4. I was overwhelmed by shame and guilt, even before the abortion. When I told my ex-boyfriend that I was pregnant and needed money for an abortion, he denied that he was the father, which deepened my shame.

5. Around Oct. 1983, my Mom and sister took me to a local abortion facility. I don't remember seeing any protestors outside. When I got there, I went into a room by myself with a lady that was telling me that I may lose the ability to have children after the abortion because of my age and small size. I didn't really

care because I was not thinking of ever getting married or having children at age 15. She also told me that my baby is just a blob of tissue. I never heard any other information about other options, fetal development, or the procedure itself. While the nurse was giving me the anesthesia, I heard my mother's voice at the door. She said "is my daughter in there?" The nurse told her "you can't come in here ma'am, you need to go back to the waiting room." I believe my Mom was trying to stop what was happening. I also believe that if she would have heard what the counselor told me about never having children, she would have taken me out of there

6. The abortion was extremely painful. I remember hearing the roar of the vacuum machine sucking my insides out. It felt like I was being ripped apart. It was the most horrible experience I have ever been through. After the abortion, they took me to a recovery room, gave me juice and crackers, and had me lay down after giving me a pad for the horrible bleeding.

7. Almost immediately after the abortion, I spiraled into a very destructive lifestyle of drugs, alcohol and promiscuous sex. I was completely spiritually void, rebelling against my Christian upbringing. I spent many years in denial and emotional numbness, without much regard for living. As I was going through the motions, trying to fill this huge void within me, I attached myself to an abusive relationship less than a year after the abortion, as a result of extremely low self-esteem. I also attempted suicide as a result of recurring depression.

8. The abortion ruined all chances of having children. During my marriage of 18 years, I suffered 5 miscarriages, with 3 of them being tubal pregnancies which required emergency surgery and very near death experiences. I am unable to have children. My abusive marriage ended in divorce, but I am free from the abuse I suffered from years of low self-esteem. I so wanted an 'atonement' baby to make up for the one I killed.

9. If someone would have approached me to help me and give me valuable information as I was walking into the abortion clinic, I probably would not have had an abortion and suffered the horrible consequences for the rest of my life. They could have taken me to a pregnancy center, or given me a sonogram so I could see my baby and hear the heartbeat. I just never knew that abortion might not have been my best option. Although I would have been open to hearing about abortion alternatives, I would have ignored people yelling at me from a distance and would have only felt more shame.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 6th of September, 2013

HOUSTON, TEXAS

/s/ Nona Ellington

Declaration of Paula Lucas-Langhoff

I **Paula Lucas-Langhoff**, declare based on personal knowledge as follows:

1. I am over the age of 18 and competent to testify.

2. I had a forced abortion in 1981 at age 19, when I was 11 and a half weeks pregnant.

3. My then-boyfriend forced me into getting an abortion in Arizona over Christmas, when I was visiting him from Illinois. When I arrived in Arizona, he threatened our future together and picked up a handgun and pointed it at me. I felt afraid and my life threatened when he gave me an 'or else' ultimatum. After he took away my plane ticket, money, and his car keys, he held me captive, saying that I could not leave until I had an abortion.

4. I went to the abortion clinic twice. I entered the clinic with fear and trepidation and had no intention of getting an abortion. I thought the clinic workers would help me consider all my options. Instead, the first thing they wanted was their $350. They did not want to know how I was doing or whether I was sure I wanted an abortion.

5. On the first day, I asked for more information, but was instead given misleading information about the abortion. I was told by the clinic counselor that the baby was only a blob of tissue and a mass of cells, and that I was too young to raise a child on my own. She also told me I had just 3 days to decide because at 12 weeks the 'embryo' would become a baby and

they would not do the procedure. I believed them when they said it was not a baby, and did not know that my child was basically fully formed, had a heartbeat, and reacted to pain. She told me the procedure was "easy" and that it would "take care of" the "problem."

6. The first day they inserted a seaweed tampon-like device to dilate my cervix. I was told I would have "cramping" and that the next day I would come back so the doctor could "clean me out" using vacuum suction. When I got home I tried to remove the device in the bathtub, but couldn't reach it. That night, the night before the abortion, I wandered the neighborhood looking for someone, anyone that I could talk to who could help. I considered whether I should knock on a stranger's door. I looked for a police patrol car but there was none.

7. My boyfriend drove me to the abortion clinic on the day of the abortion, and I was looking out the window to determine if I would survive jumping out of the moving vehicle. I went into the abortion clinic frightened and determined not to have the abortion.

8. When I finally got up the courage to tell the doctor and nurse that day that I did not want an abortion, the doctor yelled at me, and said that I was "wasting his time." They said they had lots of girls lined up waiting. I pleaded with them at first, in tears, but finally submitted to the doctor, because I had grown up in a household of abuse, and was not

equipped to defend myself without anyone else on my side.

9. They punctured my amniotic sac with a huge needle. I was lied to and had been told that I was being "given a para-cervical block" injection to numb the pain, but it was actually what they used to kill my child. There was a lot of pain throughout the procedure and I wanted to die. After I endured the procedure, I was forced to lie on the table for 15 minutes with the lights turned off, next to a glass suction container that held the fluids and body parts of my child, including what looked like my child's foot pressed up against the glass. They came to get me and told me I had to leave because they "needed the room." I had lost so much blood that I fainted on the elevator on the way out, and 3 days later I had a massive infection that required antibiotics.

10. I stayed 10 days in AZ because I was not well enough to leave – and I lost my job because they did not know where I was and I was too weak to call. When I was finally allowed to leave, I cried throughout the entire three-hour flight. While I have forgiven my ex-boyfriend, he still cannot forgive himself, and it nearly destroyed both of us.

11. I would give anything to change the past. If pro-life counselors had been outside the abortion clinic that evening, my child would be alive today, but I was too young and frightened to know what to do. Sidewalk counselors could have been my chance to get out of the abortion, and could have rescued me from a

forced abortion. My baby died because I was alone and had no one to help me.

12. Even though pro-life counselors would have helped me, I would not have responded to someone that was 35 feet away from the clinic, shouting at me or using a bullhorn. In my crisis situation I was so focused in my fear that I would not have been able to see a sign being held that far away.

13. I know that I would not have heard anyone physically at a distance of 35 feet; my house is 40 feet wide and I can't hear my husband when he shouts from the kitchen. I also wouldn't have been able emotionally to hear a message shouted from 35 feet away, I was so lost in my own thoughts. I needed a caring individual to compassionately come up to me face-to-face on my way into the clinic, tap me on the shoulder, and say something like "Hey sweetie, can I just have a moment of your time, and tell you about some other options?" That could have saved my child.

14. I will be 52 years old this year. More than 30 years after my abortion, there is not a day that goes by that I don't think of my baby and what kind of life we could have had. I have carried the burden of regret and shame for most of my life because of a supposed 'choice.' What choice did I and my baby have? The answer is that we were given no choice. A single pro-life counselor could have saved our lives.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 8th day of August, 2013

HUSTISFORD, WISCONSIN

/s/ Paula Lucas-Langhoff

Declaration of JM

I **JM**, declare based on personal knowledge as follows:

1. I am over the age of 18 and competent to testify.

2. I became pregnant is 1988, as a sophomore in college, after a classmate raped me.

3. I was traumatized and scared, especially after I suspected that I was pregnant. I went to a family planning clinic – the only place I knew to go – which confirmed my pregnancy and told me I could seek adoption or have an abortion. They did not give me any details about either option that day.

4. I returned a few days later and told them that I had chosen an abortion. All the clinic gave me was contact info for the abortion clinic, and a warning to get there early to avoid the "protesters" – peaceful sidewalk counselors and women who regretted having abortions in that facility.

5. I chose abortion even though I thought it takes a life, because I was afraid of my rapist, who tried to intimidate me into silence, and I resented how unfair my situation was. I was also afraid of being tied to the perpetrator for life if he knew he had fathered my child, and I was afraid of my parents' reaction, what others would think of me, and of getting behind in school. I didn't know where to go for help. I hadn't heard of a crisis pregnancy center, and didn't know of any maternity homes in my area. My decision to abort was especially heart-wrenching and difficult

because my birth mother put me up for adoption instead of choosing abortion when she had her own crisis pregnancy.

6. I got there early to avoid the "protestors" as advised. The abortion workers pressured me to go through with the abortion, even though I expressed doubt to them. When the sidewalk counselors arrived, the staff ridiculed the "protesters," saying it was easy for them to tell us not to abort when they've already had their abortions in their facility. I was barely given enough time to read the paperwork that I had to sign for the abortion, and they never asked to see my medical records. They herded us – the more than 30 women that were there for an abortion – all like cattle into a long, narrow hallway and stairwell where we got in line for our "procedure." As I looked down from the upstairs window and watched the two sidewalk counselors holding up their signs and talking kindly and peacefully with people coming in the doors, I kept wanting to back out, I wished I could go talk to them, but the long and narrow hallway packed with young women (that I would have to physically push my way through to get out) made me feel trapped. As we waited to undergo what the workers kept referring to as a "procedure", we didn't say much. We just kept justifying to each other why we needed this abortion.

7. Once on the table, the doctor didn't speak to me except to tell me what he was going to do during the 'procedure.' He never looked me in the eye. The experience was painful, and agonizing emotionally.

Thinking about what was happening to my baby was almost unbearable. Afterwards, the doctor directed me to the dressing area where there were several other girls dressing to leave. All of us were silent. None of us made eye contact.

8. When I got back to my dorm room, I was traumatized to see that I had passed parts of my baby's dead body. No one prepared me for this possibility or how it would affect me. Even today, 25 years later, I can't erase that sight from my mind. Being raped and then being pregnant as a teen were traumatic enough, but seeing the visible and painfully real effects of my "choice" was more than I could take. Abortion didn't annul my pregnancy, it made me the mother of a dead baby, and I couldn't deny that, especially after seeing it with my own eyes.

9. My abortion brought devastating consequences. Seven months after my abortion, I spent 19 days in the psychiatric ward of a hospital with major depression, suicidal thoughts, and psychosis. For nearly 25 years, I've struggled with chronic anxiety, depression, and feeling worthless. My husband and I have also spent well over $100,000 battling my physical health problems that are very likely related to PTSD or in this case, Post-Abortion Syndrome. I was diagnosed first with a viral syndrome, then an autoimmune disorder and chronic fatigue, a neurological form of sleep apnea, migraines, heart problems and more.

10. We've also spent thousands of dollars and hours on counseling for me, and I've reached out for free

help at the local pregnancy center to do the "Forgiven and Set Free" Bible study three separate times. I've made some poor choices with my relationships because I've struggled with believing I didn't deserve to be treated well after what I had done to my baby. I struggle with expecting perfection from myself, and I have difficulty setting and reaching goals and following through with tasks.

11. Because of this, and my fatigue and my other health problems, I've left many other things in my life undone, and I've let my loved ones down repeatedly. My husband and I have sought marriage counseling many times, and are in counseling today. I often fight fears that something bad will happen to my children and so I also struggle with being overprotective of them. I wished I had known safe people to go to for help after I had been raped. I wish I had known of a place go where they would have given me accurate and complete information about abortion and the alternatives available to me. I wish I had known where to find help and loving support for me and my baby in my crisis.

12. Although God is setting me free from the guilt, shame, and fear I've suffered with for so long after making this decision, I wish with every fiber of my being I could take it back. What I really wanted and needed in the midst of my crisis, was thorough and accurate information. Instead, my choice wasn't a real choice, because it wasn't fully informed. I'm sure those two women outside of the clinic were having a similar experience and simply wanted me to be fully

informed and loved as they (and I) were not. I needed real doctors and counselors, and people to love me and places to go for help me for me and my baby.

13. I still wonder if I had had the courage to follow through with what I was wanting to do: leave the abortion facility and go outside and talk to those sidewalk counselors against the abortion workers' urging. Would I have changed my mind, and given my baby life and myself dignity and respect? If I had I gotten there after the sidewalk counselors had arrived, would they have given me the information and encouragement I needed to make a more informed and courageous choice? Would I instead have given life to the innocent baby I was carrying against my consent? I believe I would have. I may have spared myself and my family 25 long years of having to deal with my health problems, both emotional and physical, and had a chance at a sound and healthy marriage.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 11th day of September, 2013

TEMPLE, TX

/s/ JM

Declaration of Madonna Medina

I **MADONNA MEDINA**, declare based on personal knowledge as follows:

1. I am over the age of 18 and competent to testify.

2. I had an abortion over 33 years ago, but still remember it as if it was yesterday.

3. I knew I was pregnant and was very happy about a new life growing inside of me. Of course there would be changes and I was ready for it. I was choosing life for my very first baby! Unfortunately, the people I should have trusted the most pressured me into choosing abortion.

4. I was not prepared for what I would encounter at my Obstetrician/ Gynecologist. The nurse confirmed my pregnancy with a grave voice by saying, "You're pregnant! What are you going to do about it?" She then told me that I could always have an abortion, it was an easy procedure, I was young and had my whole life ahead of me. The nurse said that since I wasn't married, I would live a hard life as a single mother and would always be poor. The doctor reiterated the same thing to me, and they bombarded me with "facts and statistics" that they thought would convince me to choose an abortion. I left his office that day in tears, resolving to never return.

5. A few weeks later, the father of my unborn child, my fiance, changed his mind and said that he wanted me to get an abortion and that we could "have as many children as we want when we get married."

6. Feeling helpless, confused and trapped, I again found myself in the doctor's office, the day before the abortion. The nurses were shocked that the doctor was going to perform an office procedure at almost 14 weeks and suggested I drink a bottle of wine before coming in the following, morning to block the pain.

7. When I went to the abortion clinic the next morning, my prayers for someone to stop me went unanswered – there were no pro-life counselors outside of the clinic.

8. The abortion was the most horrifying and painful experience of my life. I was fully awake during the whole abortion. I wanted to say STOP the moment the procedure began but it was too late. After what seemed like an eternity, it was over. I looked over to my left at the big glass jar and saw the tiny dismembered limbs of my baby floating in a sea of blood. That image plagued me for many years to come. I couldn't deny the emptiness I felt inside, physically, spiritually and emotionally. Abortion had devastating long-term consequences for my life. My relationship with the baby's father soon ended. I did anything to dull the pain – turning to excessive drinking and drug use – and felt like I had lost my sanity; all it took to lose control was hearing a baby cry or children sing. I endured constant thoughts of suicide.

9. My life did not change until 18 months later, when I found faith, and only then did my need for drugs and alcohol come to an immediate halt. I have

since accepted responsibility for my actions, and come to find forgiveness and healing.

10. 30 years later, I answered the call to volunteer at a pregnancy help center. I wanted to be the one who wasn't there for me, to say there is a better way. My baby and I were victims of the abortion industry. But today I am walking in forgiveness and peace and experience the joy of serving in a center where hope is offered to women in crisis pregnancies.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 6th day of September, 2013

HOUSTON, TEXAS

/s/ Madonna Medina

Declaration of Jean Pickett

I **JEAN PICKETT**, declare based on personal knowledge as follows:

1. I am over the age of 18 and competent to testify.

2. I became pregnant after a one night stand when I was 21. I had just graduated from college. I had big plans and a baby was not part of that. So I decided to have an abortion.

3. I went to the newly opened Planned Parenthood in Albuquerque, NM in July of 1973 on what I learned was their first day in business at least doing abortions. There was nobody outside praying or offering alternatives.

4. When I walked in the door they confirmed I was pregnant and said they could take care of it, no problem. I paid my money, got my abortion, and they gave me a bouquet of roses because I was their first client. Despite the fact that I had become pregnant while faithfully taking oral contraceptives they put me back on the same pills. They congratulated me and said to come back and see them.

5. In two years I was there again. Again, I had gotten pregnant on the pill. Again, they provided me with no counseling and no other options. I didn't get roses the second time around.

6. I did not see pro-life counselors outside of the clinic either time. If I had seen someone protesting in a Grim Reaper costume, I would have thought they

should be locked up. That type of protesting is counterproductive and would have only made me become more firmly pro-choice. But what might have brought me around would have been someone out there praying for me and telling me that God loves me. I can't exactly say what I would have done in that case – I might have just brushed them aside – but it also might have brought me back to God sooner so that I wouldn't have had an abortion. It certainly would have had a very different effect than someone trying to frighten me or shout me down.

7. My abortions did serious damage to my mental and physical health. They took a toll on my friendships and romantic relationships, and caused emotional instability, anger, and addiction. Even still, it took years to realize that the abortion was the genesis of my problems. Without the forgiveness that comes from my faith, I would have experienced guilt for a lifetime.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 12th day of August, 2013

AUSTIN, TEXAS

/s/ Jean Pickett

Declaration of Esther Ripplinger

I **ESTHER RIPPLINGER**, declare based on personal knowledge as follows:

1. I am over the age of 18 and competent to testify.

2. I had an abortion because I did not receive life-affirming information when I asked for it. At the time I was 19. I was pregnant and scared. My boyfriend and his family told me to get an abortion. I feared the alternative, which was to be a mother all alone. At the clinic, I hoped they would give compassionate advice. I told her we had plans on paper to be married, but his parents insisted on the abortion. "These kinds of relationships don't work out at your age", she said discouragingly. I was not made aware of the many community services available for pregnant women. Rather, she proceeded to sell me the abortion as a "quick-and-painless, routine procedure."

3. I asked the woman about the baby's stage of development. "It's only a blob of tissue", she said. The truth is that my baby already had hands, feet and a beating heart. She proceeded to explain the procedure. She showed me a model to demonstrate the "laminaria", which was to be inserted. "Beyond this point", she emphasized, "You must not change your mind." As I was leaving the room to go to the waiting area, I remembered they had given me a pregnancy test, but she had not told me the result, and so I asked her about the result of the pregnancy test. She said in reply, " It is positive". Upon entry of the waiting room, they gave me Valium. I wished for a way

out even then, but the medicine caused me to not worry about anything. After the "laminaria" procedure, I thought it was too late to change my mind, because of what she had told me.

4. While on the table, a man entered. Though he would perform the abortion, I had not seen him or spoken to him before that moment. Both the sound of the machine and the pain were shocking to me. I was not informed of this excruciating pain. In fact, the woman told me I would feel "minor discomfort" and that "most girls just feel a pinch," gesturing on her arm. But there I was, gripping for my life, feeling the sting of death in the most tender part of my body as my baby was sucked out of me with a vacuum device.

5. For a brief moment, I recuperated on a cot. They needed a place to rest another girl. Even though hardly ready to leave, a woman came to show me out the back fire door. Gingerly, I walked out. This was not the door I entered into the waiting room. Surely someone coming in the front door would be disturbed if they saw how I looked afterwards.

6. I lived in denial for many years, and did not realize to what extent the abortion had affected me. I experienced periods of depression, especially during a certain part of the year, for which I was prescribed an anti-depressant. Years later, I realized my depression was the anniversary of the abortion. The truth is my body had not forgotten this trauma, though I had tried to forget it.

7. I experienced extreme anxiety over the vacuum cleaner, which I later realized was because it reminded me of the suction from the abortion. I also became overly protective of my young son and feared he might die.

8. If someone had given me information and alternatives as I walked into the clinic, I would not have made this choice. Instead, my only memory is of people with pictures of dead babies shouting, which I perceived as not loving and caring for my needs.

9. I have lived with the consequences of my "choice". I have found it to be the worst decision I have ever made. The pain and incredible loss of a child lasts a lifetime. I support petitioners in this case because I want other women to have access to the information that I did not have.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 10th day of September, 2013

AUMSVILLE, OREGON

/s/ Esther Ripplinger

Declaration of Heather Shearfield

I **HEATHER SHEARFIELD**, declare based on personal knowledge as follows:

1. I am over the age of 18 and competent to testify.

2. I was 17 when I had my first abortion. I was terrified. My parents made the decision and I was tremendously relieved when they told me what they had decided. I didn't want anyone at school to know. I believe they made this decision because I was a decent student who would attend college, and a child would interfere with those plans even if I gave it up for adoption. Oh, how they struggled with this decision. I will never forget my mother's statement that she hoped I did not one day regret this decision. I am so sorry that they now have to carry guilt for my poor choices.

3. My mom took me to the clinic. I don't remember much except that a lady assured me that this was "tissue" and not a life or even a child. I was much relieved but didn't need all that much reassuring – I was terrified of having a baby, for many reasons. I was also terrified that this was a child and that my decision was wrong, but I never heard anything to the contrary. So, I proceeded to make the mistake that would change the rest of my life.

4. I believe the actual procedure was traumatic because I do not remember anything about it except that at the end, in the recovery room I was sobbing, crying for my mother and a nurse came over and

gruffly said, “What do you want your mother for? She wasn’t with you when you got pregnant.”

5. My heart felt like it fell through the floor. I was so very sad. I couldn’t quite place what had happened or what I had done but I knew my heart was broken and I just wanted to be held by anyone, it didn’t matter. But the only human being nearby had just taken what was left of my heart and stomped it. But, once the nurse said that, I stopped crying, and hardened my heart as best I could. From that moment on I became the hardest, meanest individual I could be, in an attempt to stop the hurting and grieving.

6. I had drank and used drugs prior to this, however now I meant business. I pursued intoxication with a desperation that I didn’t recognize in myself. And this lasted for the next 24 years.

7. To top it off, three years after my first abortion I had another, this time on my own volition. It didn’t seem like that big of a deal at the time because it’s how I handled my first pregnancy. I used birth control but living the lifestyle I did I was not very consistent.

8. I ran hard for about the next ten years. But I couldn’t run from the truth any more, and one spring morning I fell to my knees in despair, begging for forgiveness from whatever God there was and the children I aborted. I decided to never again consider abortion, no matter how dire my circumstances.

9. I continued attempting to blot out the reality of what I had done by any means necessary for the next

17 years. I had absolutely no value for my own life. I was a murderer. I am lucky to have survived those years. The desperation, depravity, remorse, regret and shame I lived through I cannot even begin to describe. I still grieve my unborn baby.

10. During this time I had an ectopic pregnancy, and my doctor said he could not save the child, even though I was desperate not to abort another child. He also told me that he had to remove my left fallopian tube, and that I would most likely not conceive children due to the scar tissue. I took this as my just due and punishment for my sins.

11. Remarkably, however, at 37 years old I found out I was pregnant! When they told me at the doctor's office I didn't believe them and didn't even tell my boyfriend when he called to check on me. I just knew it was a mistake. But they did a vaginal ultrasound (my first ever) and it was not a mass, not an ectopic pregnancy, but a baby!

12. Here I was an alcoholic, homeless, unmarried pregnant woman, scared but thrilled! I knew I would not make the same choice again regardless of how hopeless my situation seemed at the time. I am now a sober, productive member of society, employed full time, and an active member of my local church. Best of all I am the mother of a beautiful, smart and loving little girl and married to her father. I know one day, I will have to tell my daughter about her two siblings, but I also know that I have repented and I am forgiven. The facts of my life speak for themselves. When I

attempted to control my own destiny by "choice" I ended up with a life of no choice. When I chose life, I ended up with a life far beyond what I have ever imagined or deserved.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 6th day of September, 2013

LAKE JACKSON, TX

/s/ Heather Shearfield

Declaration of Patti Smith

I **PATTI SMITH**, declare based on personal knowledge as follows:

1. I am over the age of 18 and competent to testify.

2. I have had two abortions, one in the mid 70's and one in the early 80's. I had my first abortion because my career was on the rise, and I did not know who the father was. I actually did not want to have my second abortion, but my parents convinced me it would ruin my life and my career.

3. I remember both abortions like they happened yesterday. The clinic was cold and sterile; there was no one there to provide any type of comfort or assurance. They treated the abortions like something as routine as a dental filling. The sound of the vacuum echoes through my ears and the tugging felt like something was trying with all its might to hold on. Each time I left the clinic, instead of feeling relief I felt empty, like I had left something behind.

4. After my first abortion, I became increasingly promiscuous, drank more, and was hell-bent on self-destruction. I lost the love and respect of my family, and the love and respect of myself. I also punished myself for the abortions, by having a tubal ligation and thus surgically removing my ability to have a child. Fifteen years ago, my perceived depravity made me incapable of looking myself in the mirror, so I believed suicide was the only alternative. I was admitted to a psychiatric hospital and eventually underwent rehab.

5. In 2006, I attended a healing retreat and realized that my abortions were the source of many of my problems. I had buried guilt, shame, and self-hatred over my abortions, and turned to drinking and promiscuity to keep it hidden, in a futile quest for love and acceptance. There were no sidewalk counselors outside the clinics for either of my abortions. If there had been people there screaming and holding pictures of aborted babies, I would have walked right by them. If you yell, scream, and holler, that's not going to do anything. I'm convinced that is what the pro-abortion movement wants pro-lifers to do.

6. But if there was someone showing me love and compassion, I think I would have taken a different path. I wish someone had simply said, "Can I talk to you for a minute before you go in, because maybe there are options you haven't considered." None of my friends was trying to dissuade me, and the abortion clinic didn't give me other options. I felt that I had no choice.

7. I still cry about it, and it has been thirty years. I want other women to be able to hear about their own options so they do not make the same choice I did.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 10th day of August, 2013

VISTA, CALIFORNIA

/s/ Patti Smith

Declaration of Susan Swander

I, **SUSAN SWANDER**, declare based on personal knowledge as follows:

1. I am over the age of 18 and competent to testify.

2. I had three abortions, the first in 1968 and the last one in 1991.

3. My first abortion was in 1968 when I was only 18, after a one-night stand with someone I had just met, and would never see again. I crossed the border into Juarez, Mexico for the abortion, and I did not question my abortion at the time. I never told my parents because I did not want them to know about my promiscuous lifestyle. No one at the clinic explained the abortion to me, although they were very kind.

4. My second two pregnancies occurred during an affair with a married man, who pressured me into an abortion by threatening to leave me if I kept my child. I could not afford to leave him, either financially or emotionally. Excessive drinking had clouded my thinking, and I still had no real information about abortions – pregnancies were, in my view at the time, simply a problem to be fixed.

5. My second abortion was in California, at an abortion clinic with no pro-life counselors outside. No clinic employee ever mentioned alternatives to abortion to me, or any relevant medical details about the abortion, such as the physical and emotional risks to my health. I was just a body with – as one clinic employee put it – cells that they would remove.

6. My third abortion took place at a hospital in Oregon, near a maternity ward. As before, no one was outside the hospital with pro-life information, and hospital employees did not inform me about the medical procedure, the risks, or abortion alternatives. They just handed me a "consent" form, and joked that I probably did not need to read all the legal lingo.

7. After both of these abortions, the clinic personnel wanted me out of the building as soon as possible. No one asked how I was feeling, or if I needed any counseling or follow-up assistance. I drowned out my physical pain after each abortion with alcohol.

8. Nothing in my life has ever been "well" or the same since 1968. I suffered for 36 years from depression, guilt, shame, alcoholic drinking, drug use, promiscuity, overeating, and deep-seated anger. In 2004, I finally found a path of healing and tools of recovery through Rachel's Vineyard Ministries. I am not "fixed" or "cured," but I am much healthier than I have ever been since that fateful day in 1968.

9. I wish there had been someone to tell me about my options before I had my abortions. Someone outside a clinic with a bullhorn would have made me angry – if I had heard someone screaming at me during my crisis, I would have probably yelled right back. A message about abortion alternatives could have resonated with me, but I needed someone to talk to me in a calm tone of voice, or a gentle touching of my elbow to ask if they could talk to me.

10. If someone had given me correct information about my babies, post abortion trauma, and abortion alternatives, I truly believe I might have made different choices – my 3 children might be alive today. I needed to know that I had a way out other than abortions.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 10th day of September, 2013

WALDPORT, OREGON

/s/ Susan Swander

Declaration of Molly White

I **MOLLY WHITE**, declare based on personal knowledge as follows:

1. I am over the age of 18 and competent to testify.

2. I declare under penalty of perjury that the foregoing is true and correct.

3. I had two abortions in Texas, one in 1981, and one in 1985.

4. Before my first abortion, I went to a local medical clinic for a pregnancy test. I had never visited that clinic before and did not know the doctor prior to my visit. The doctor came into the examining room and told me that my pregnancy test was positive. He then said, "You don't look too happy about this, but don't worry about a thing. You can have an abortion. Don't worry about a thing. You are not very far along and there is nothing to it." He gave me a name and number to an abortion clinic in nearby Austin.

5. Since I was young and naïve, I put a lot of trust in those who I thought were more knowledgeable than myself and I pursued that option. My heart and mind battled on the way to the clinic the next day. I did want information so when I arrived at the clinic I asked about the fetal development of my baby (6-8 weeks) and was told it was just a tiny blob of tissue. I then asked about the abortion procedure and was told it was a minor, safe procedure that would "clean me out" and that it had the same discomfort level as a menstrual cycle. Both of these questions were

answered with lies and misinformation and I based a life taking, life altering decision on the lack of factual information.

6. My abortions caused me continual bleeding, a damaged cervix, and uterine scarring, which gave me two stillborn children and a miscarriage.

7. I did not have any information about fetal development or abortion procedures and the risks of abortion. Neither did I have any information about abortion alternatives or crisis pregnancy centers where I could go for information and help. If I would have had this information I would have made a more informed decision and would not have chosen abortion.

8. I believe my children would be alive today if there had been sidewalk counselors in front of the clinics where I went to have an abortion. If someone had been outside of the clinic offering me help and information, talking face-to-face with me, I would have decided against having the abortion, which was the most regrettable decision of my life.

9. I would have definitely changed my mind concerning abortion if a sidewalk counselor had been available to talk to me and give me the information I was seeking, and give me the hope and encouragement I needed.

10. With a sidewalk counselor being so far away and the parking for the facility so secluded I would have

never have been able to get that information with a buffer zone like the one in Massachusetts.

11. Not being able to talk to a person up close and in a personal way would have been a hindrance in getting the encouragement and help that I needed.

12. Everyone has the right to information, including a woman seeking an abortion. Every woman has a right to change her mind. Even if she is going to an abortion clinic, she has the right to change her mind. She may be seeking counsel there, but the counsel she gets from them will be to get an abortion.

13. If people approach you in a parking lot selling things or asking for donations they can give you information, and you can take it or not take it – it's your choice. The same rights should apply for sidewalk counseling. Sidewalk counselors aren't there seeking money, they are providing help and resources for pregnant women in need.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 11th day of September, 2013

BELTON, TEXAS

/s/ Molly White