

CLOSING ARGUMENT: Defense Attorney Peter Breen

Transcript courtesy of the St. Thomas More Society

MR. BREEN: Ladies and gentlemen, this case is about the steps it took for private citizen investigators to cut through a curtain of silence and concealment. They didn't do it for profit or for personal gain. They did it for the paramount public purpose of letting Americans know and law enforcers investigate whether and to what extent our laws may have been violated.

And they are not just any laws, but these are laws relating to homicide against born human beings. Laws against the selling of body parts and organs of aborted human fetuses. And the laws against changing medical procedures without knowledge and consent to obtain more valuable fetal parts. And after six weeks of trial the lawyers for Planned Parenthood just conceded why they are suing here today. In the words of Melvin Galloway, "the brand was damaged." And, Willow, if you will go to the next slide, please?

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They wanted to protect the brand. But what is it that hurt the brand? The very words spoken by Planned Parenthood personnel on those videos is what hurt the brand.

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At the end of this trial the judge read a stipulation, an agreed fact to you, that what is shown on the videos are the words of the Planned Parenthood personnel. Now, Planned Parenthood could have tried to dispute this issue, but when push came to shove here at trial, a place where you need hard evidence to back up your claims, they had nothing. This is what so outraged the public. The true words of Planned Parenthood's top abortion doctors and other personnel.

Now, a handful of people were so incensed that they allegedly wrote or called in threats. But we don't know those few people. They are strangers. They are not in court. They are not even known to anyone here.

Now, remember, you heard testimony from Dr. Deborah Nucatola. And Cecile Richards, the president and CEO of Planned Parenthood at the time, apologized to the nation for what Dr. Nucatola said on that video. Cecile Richards wouldn't have issued a public apology unless it was something very serious to apologize for.

You remember seeing that video of Dr. Nucatola as waiter after waiter after waiter walked by and she talked about crushing above and crushing below to get more valuable fetal tissue, where she talked about changing the presentation of a fetus from vertex to breech.

You want to know why the people of the country were outraged? That's why.

Now, our country was founded on a radical idea. It was put simply in three little words, "We, the people." We, the people, run things; not some king, not some group of nobles. But in order to run things we, the people, need information. And at critical times we, the people, need the information that only undercover journalism can provide. Undercover journalists take on assumed identities. They develop cover stories. They train for their roles. Sometimes they secure meetings with key people. Sometimes they go to conferences. Sometimes they do site visits with their investigative subjects. Sometimes even take jobs with their investigative subjects.

But because of undercover investigations, we, the people, sometimes become outraged and laws are changed. Businesses are picketed or boycotted, and sometimes the wrong-doers are even sent to jail as a result of undercover investigations. But no matter the outcome, we, the people, don't then turn around and blame the messenger for the content of the message. Essentially here where there is no challenge as to the truth of the content of the message. We don't hold the journalists to account because some crazies outside this courtroom do things with the information. We don't hold them to account for that. Now, ladies and gentlemen, I think it's clear, and Planned Parenthood made the point, there was no way for the public to know what was going on in this shady business of selling and buying human fetal organs and tissues except through undercover work.

Planned Parenthood's own witnesses volunteered they wouldn't have talked to BioMax and Robert Sarkis, as David Daleiden's undercover persona, if they had known they were undercover.

Now, there are going to be other attorneys that will come after me and address the details of the claim. There is a lot of it and you saw that, but I want to flag a few items for you as you're going through to just think about.

First of all, there is some recording claims that are California, Florida and Maryland law. We call them two-party consent states. Take a look where David and the team decided to do their undercover filming. You saw exhibit halls of abortion trade shows, some with thousands of attendees. You saw crowded evening receptions where everyone had a drink in hand. You saw restaurants where waitstaff and other patrons are present.

But isn't it true that when you can be overheard, it's a place of the type where you could be overheard. That's not a private or a confidential setting. If you want privacy or confidential, you duck into an office. You pull someone aside. You go to an alcove. You do something to get away from people. Now, did you hear during the testimony there were some Planned Parenthood witnesses that even tried the incredible claim that because the settings were so loud because of all the people around, that they somehow were turned into private and confidential settings. That turns privacy and confidentiality on its head. It doesn't make common sense.

Now, as well, Ms. Trotter and Mr. Kamras talked about the intent of David and the investigators. You saw there were two site visits in Texas and Colorado. Those are states without the taping laws of California and Maryland and Florida. Well, if David and his investigators didn't care about following the state taping laws in California, Florida and Maryland, then why only do site visits in Colorado and Texas? Except that they were trying to follow the law.

Now, here is another point. Think about the context of the conversations. In most of them Planned Parenthood staffers are talking to near complete strangers. Not just strangers, but vendors looking to give them money for fetal tissue and organs. What expectation of privacy do you have talking to a complete stranger?

Also, they talked about the invoices. And you heard our damages expert talk about the fact planned Parenthood gave you no hard data of the before. They only gave you the after. And if you don't have the data from before, you can't compare the after. You have no way of knowing were they actually harmed? What were they spending on security? That's something they should have brought before you. They had to bring before you, but they didn't.

Now, in terms of looking at the invoices, one set of invoices was dealing with members of the public that were reacting to the message. Should those folks be prosecuted, sued, jailed, whatever? As appropriate, yes. But they are strangers to this process here. You don't make the messenger accountable because the message got some people inflamed.

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Now, as well, I want to go to Mr. Minow. He confirmed for you they have had repeated instances of trying to infiltrate in the past. And then he also confirmed for you it was an organization called Live Action that literally exists to infiltrate Planned Parenthood.

And he further admitted to you they were going to use assumed names. And you had other witnesses that testified for you that they knew about David Daleiden from '09. They had his picture on his publicly available website. And they apparently did nothing.

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The CEO of Planned Parenthood Rocky Mountain said it best. She realized it was trivial to figure out these guys were scamming us, and there were some red flags, and there were simple steps that could have been done. Use lookbooks. Check for valid proper government identification.

Now, there was some sporadic testimony, you heard it argued, that they thought there might have been other BioMaxes. But that's a fantastic tale made up for litigation. They didn't provide a single piece of hard evidence. Not an email, not a report, not anything somehow saying they were fearing another BioMax.

Remember, we saw by 11:00 o'clock on that first day they knew BioMax was a front company. Daleiden was in charge. And they knew all the conferences that they had taped at that are the subject of this lawsuit.

Planned Parenthood staff weren't scared of more BioMaxes. They were scared of losing their jobs.

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You have this email here from Vicki Cowart. She's saying: Why didn't you guys do a simple Google search? Why did you let these guys into my facility?

So they got extensive consultants. So be it. That wasn't a damage caused by David and the investigators. Maybe they exposed a hole, but they didn't cause any damage. They didn't hurt anything.

Ladies and gentlemen, when we started this case, we told you you could keep your views on abortion, and that is still very much true. This case is something far beyond abortion. It's about the market in the body parts and organs of aborted fetuses.

And to that issue, there is no dispute that David Daleiden and his investigators knew there were grave problems in that industry. There was no way of getting at those problems without going undercover. And, obviously, as you've seen and heard, they uncovered some troubling and very difficult truths. Truths so bad the president and CEO of Planned Parenthood had to apologize.

So, ladies and gentlemen, this is not a case of fraud or racketeering. This is a case of undercover journalism. And we, the people, need that information. You need that information. You may not like

seeing that information. It may be difficult or whatever. But we don't want to stop the flow of information.

A verdict for the defense continues the flow of information from undercover journalists. Verdicts for the plaintiffs shuts that down.

Thank you.

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