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## Planned Parenthood of the Columbia/Willamette, Inc. v. American Coalition of Life Activists (23 F. Supp. 2d 1182 (1998))

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## COURT WATCH

*PLANNED PARENTHOOD OF THE COLUMBIA/WILLAMETTE, INC. V. AMERICAN COALITION OF LIFE ACTIVISTS (23 F. SUPP. 2D 1182 (1998))*

by *Debbie Karet*

On February 25, 1999, an order and permanent injunction banning fourteen defendants from threatening abortion providers followed a February 2, 1999 jury award of \$107 million dollars for plaintiffs of Oregon women's clinics. The jury found that "Wanted Posters" and an internet website truly threatened four doctors and two operators of abortion clinics. Defiance of the Judge's order would have resulted in fines of up to \$1,000 a day. However, the website was dropped by its service provider two weeks prior to the judgment.

The individual plaintiffs, physicians who provide abortions as part of their medical practices, sued for injunctive relief and damages "to redress a campaign of terror and intimidation." Each of the individual plaintiffs had been specifically targeted by the defendants.

The three items which were found to threaten the plaintiffs were the "Deadly Dozen Poster," the "Crist Poster," and the "Nuremberg Files" website. The Deadly Dozen poster accused two of the doctors of Crimes Against Humanity calling for a \$5,000 reward for information leading to arrest, conviction and revocation of their license to practice medicine. The Crist Poster specifically identified three other abortion providers and reproductive health care clinics and included a photograph of one

of the doctors with his home and work addresses. This poster also accused the doctor of being guilty of a crime against humanity and called for a \$500 reward. Finally, the Nuremberg Files website, whose title dripped with blood when viewed, provided boxes listing personal information of doctors. When a physician on the list was murdered, his name was immediately crossed out. It also honored individuals who were incarcerated for committing anti-abortion violence.

U.S. District Judge Robert Jones decided that the correct test for the jury to use in deciding whether the three articles were protected by the First Amendment was an objective, speaker-based test. This test provides that "a reasonable person must foresee that the statement would be interpreted by those to whom the maker communicates the statement as a serious expression of intent to harm or result."<sup>1</sup> This was found to be a better method to determine whether a threat was a "true threat" than the subjective speaker test advocated by defendant which asks whether the speaker actually intended to threaten rather than merely to communicate an idea using protected speech.

This jury verdict has raised much criticism regarding issues of free speech

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<sup>1</sup> *United States v. Orozco-Santillan*, 903 F.2d 1262 (9th Cir. 1990)

as well as protection to women and abortion providers. The defendants have appealed the District Court's decision.