

FILED  
U.S. DISTRICT COURT  
DISTRICT OF MARYLAND

SEP 18 2007

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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND – BALTIMORE DIVISION

ALBERT SNYDER,  
Plaintiff,

vs.

Case No. 1:06-cv-1389-RDB

FRED W. PHELPS, SR.;  
SHIRLEY L. PHELPS-ROPER;  
REBEKAH A. PHELPS-DAVIS; and,  
WESTBORO BAPTIST CHURCH, INC.,

Defendants.

**OBJECTION OF DEFENDANTS  
PHELPS-DAVIS & PHELPS-ROPER  
TO PLAINTIFF'S PROPOSED QUESTIONS TO THE JURY**

Rebekah A. Phelps-Davis and Shirley L. Phelps-Roper, as pro se defendants herein, make the following objections to the proposed supplemental jury questionnaire by plaintiff:

1. Question #2 is misleading because of its broadness. The record reflects that defendants were 1000+ feet away from the location of the funeral, out of sight and sound, and the funeral was a highly public matter. That is a much more narrow circumstance than this broad statement. Therefore this statement is prejudicial and misleading. Alternatively, it should be clarified that the question came from plaintiff and only reflects plaintiff's viewpoint.
2. Question #3 is objectionable because it suggests this is a position defendants have taken, and is designed to (or will have the impact of) stir up the passions of the jury. This is a common

response defendants receive when they address the priest rape scandal of the Roman Catholic church – the suggestion that not *all* the priests have raped or are pedophiles. This is not the proper forum to have the debate on this topic – which is why it should not be raised in this case. But if the Court is going to allow it to be raised, and allow questions to be posed to the jury about defendants’ beliefs, the question should reflect *accurately* what defendants believe and say. It is far more complex than simply saying all Catholic priests are pedophiles. The particulars of defendants’ viewpoints about the Catholic priests who have raped little children is contained in the record in some detail, given that plaintiff is putting them on trial for that belief. It includes discussion about the responsibility of priests and other staff of the church, and its members, and how they should respond to *one* priest raping a child; and it includes discussion about what the Bible says about idols and the relationship between idolatry and homosexuality; and other such issues. This simplistic question does *not* reflect what defendants believe or have published; and it is inappropriate to allow this mocking approach to the topic in this context.

(If the plaintiff or his counsel would simply bother to educate themselves on this topic, just a little, perhaps with something as small as watching the short documentary entitled *Deliver Us from Evil*, they would not be so cavalier about the impact of this monstrous blight on the American landscape. They would consider the horrible impact on this nation from one end to the other when countless children have been molested by priests who breach their fiduciary duty; use their fiduciary relationships to gain access into the homes and beds of those over whom they have spiritual sway; and then use that access to commit acts which everyone would

have to agree are horrendous and evil. The wrong is compounded by other priests and the hierarchy of the organization who shuffle the offenders from location-to-location, giving them further access, rather than taking them to the law enforcement and prosecutorial authorities for the punishment that is due. When the offenders are relocated, this is done without any warning to the new parish, or parishioners, or anyone else. All of this is contrary to the law of man *and* God. Under the legal doctrine of *in pari delicto*, each and every one of those covering priests, cardinals and bishops are equally guilty with the priests that engage in the criminal conduct, all of which conduct is a grotesque breach of the standards of the Lord their God, whom they claim to serve. The only question here is how anyone in this country, given the vast amount of information on this subject, could be so calloused as to open their mouths to pretend that anything about this matter is other than what these defendants have stated.)

3. Question #6 is objectionable because it is gratuitously demeaning of defendants, and appears to be calculated for that purpose. The right to engage in religious picketing does not rest upon plaintiff or anyone else agreeing Westboro Baptist Church is a church. In fact, Westboro has been in existence as a church, with weekly services, for almost 52 years; and the record reflects that the religious views of the church's members are well-grounded in Scripture, with the members daily studying the Bible and knowledgeable in its content. But even if that was not so, it is inappropriate to have a question that suggests the possibility that the church is not legitimate.

The claims presented by plaintiff in this case are ill-advised, and without foundation in law or fact. This lawsuit is about plaintiff's (and his counsel's) disagreement with the religious views of the defendants. They have been permitted to fill this record up with derisive statements about defendants, without restraint, all of which decreases the possibility of defendants being fairly heard on the merits in this matter. Setting that aside (momentarily, and without waiving any of the factual or legal objections raised in this record to these alleged claims and all of the extra-pleading inappropriate commentary by plaintiff's counsel), whether or not Westboro is a legitimate church, or a "true" church, or whatever notion Question #6 is intended to imply, is not an issue in this case, even by plaintiff's broad pleading and assertions. As a matter of law, if Westboro "holds itself out" as a church, *it is a church*. No one gets to second-guess that, nor is it proper for any party to use a legal proceeding (especially one as unconstitutionally-grounded as this one) as the occasion to imply that one religion is less legitimate than another. There is zero evidence in this record that defendants or Westboro members are insincere in their statements that their picketing and publications are based on their faith; and that's where the discussion ends. This case in and of itself is prejudicial enough as it is; it would be unduly and irreparably prejudicial to permit this question to be asked, to suggest to jurors that defendant Westboro may not be entitled to the status of a church. If plaintiff had a genuine concern that someone might favor a church-organization over another non-church-organization, the question could have been framed differently. That is not the goal of the question; the goal of the question is to offer jurors the possibility that they do not have to honor the fact that Westboro is a church,

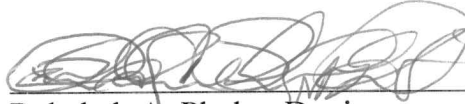
and can instead mistreat her members, simply because they disagree with their religious viewpoints.

As a matter of law, if the speech was privileged or protected, *no one* is entitled to reach a verdict against defendants because they do not believe Westboro is a legitimate church. Plaintiff is attempting to reach an outcome by jury nullification, as though there were no constitutional protections in this country, because of his visceral disagreement with what defendants believe. This question is designed toward that end, and should not be allowed.

Question #6 has no relevance in this case. It is contrary to Rule 606 of this Court's rules: **"The Court expects all of its judges and all counsel to conduct themselves in a professional and courteous manner in connection with all matters pending before the Court."** It is not plaintiff's place to suggest to the jury, through *any method*, that Westboro is not a legitimate church, or that defendants' faith is not legitimate or viable, or that the words they find in the scriptures and believe what they find, are so outrageous that no one would possibly believe them. Remember, this nation calls itself "Christian". Continuing to allow insertion of these kinds of notions into this record is prejudicial, and contrary to this Court's own rules. Defendants request that the question be disallowed, and plaintiff's counsel be instructed to refrain from any further such dialogue, particularly in the presence of a jury.

These defendants will address these and other improper matters that have been spread all over the record of this case further by way of Motions in Limine at the proper time.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

We hereby certify that the foregoing objection was served on September 17, 2007, as follows:

Original + 2 copies, with 2-hole punch, by express mail, with return envelope, to:

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