

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.

**MOTION IN LIMINE**  
**OF DEFENDANTS PHELPS-DAVIS & PHELPS-ROPER**

Rebekah A. Phelps-Davis and Shirley L. Phelps-Roper, as pro se defendants herein, move the Court for an order that prohibits any reference to any of the following matters during argument, questioning witnesses, or otherwise, during trial of this matter, by plaintiff, his counsel, or his witnesses, for the reasons indicated below:

1. Any reference to any name or content of any Web page. Plaintiff says he does not seek liability based on the content of defendants' message, so no content should be referenced. Plaintiff only claims damage from one document on one Web page, so no other Web pages should be referenced in any event.
2. Any reference to any content of the epic a small portion of which is the subject of the complaint in this case. Plaintiff says he does not seek liability based on the content of

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defendants' message, so no reference should be made to the epic, copies should not be in the record, and none of the content should be referenced. Alternatively, if the Court permits the claims to go forward based on the few sentences plaintiff claims are false, only those statements should be in the record, and no other part of the epic.

3. Any reference to any other epic, letter, writing, or any content whatsoever in any setting unrelated to the funeral of Matthew Snyder, including epics written by Margie Phelps or any other church members; epics written by defendant Phelps-Roper regarding other events; or any other writing. Plaintiff has stated that he does not seek liability based on content; further, these other writings are utterly irrelevant to any issue in this case, and designed only to inflame and prejudice.
4. Any reference to any picket other than the picket in Westminster, Maryland on March 10, 2006. No other picket is at issue in this case, and any reference to other pickets is designed to inflame and prejudice.
5. Any reference to any content of any sign, whether used or not used during the March 10, 2006 picket. Plaintiff says he does not seek liability based on content; the content of the signs is designed to inflame; the content of the sign is protected religious speech; and such material is irrelevant to the claims.
6. Reference to any aspect of the life or childhood of Matthew Snyder. This is not a wrongful death case; there is no claim that defendants are responsible for Matthew

Snyder's death; any details about his life or childhood would be unduly prejudicial and irrelevant to any issue in this case.

7. Any reference to any claim or belief by plaintiff that defendants defamed him by any reference to adultery or to how he raised his son. No discovery has been forthcoming on these issues; it would be highly prejudicial to permit any reference to these claims, or to even bring up the issue of whether it is false to say plaintiff taught his son adultery, when discovery was not allowed on this core issue.
8. Any reference to any allegation that someone supposedly called plaintiff's house and left a message on his answering machine about his son. This allegation is found in plaintiff's deposition and is included in the expert witness report of Dr. Kenneth Doka. No tape recording has been produced to substantiate that this even happened; let alone has there been any evidence whatsoever that defendants made such a call (and in fact they did not). It would be highly prejudicial to permit this hearsay to be referenced given its total lack of any evidentiary basis or relevance to this case.
9. Any reference to plaintiff's claim that a former co-worker reported (hearsay) that his wife said (double hearsay) that she saw news coverage (triple hearsay) of the picketers and supposedly raised the question of whether plaintiff's son was gay. First, the levels of hearsay make this evidence incompetent (especially since neither the former co-worker nor his wife is listed as a witness in this case). Second, an interpretation by some other person of what defendants say while engaged in protected speech is not chargeable to

defendants. Thus any such reference would be highly prejudicial and inappropriate, and not relevant to the claims in this case.

10. Any reference to or use of the language “disruption” given the complete lack of any evidence that any aspect of the funeral was changed, limited, altered, modified, interfered with, or in any fashion prevented from going forward. This includes any hearsay by the priest who did an affidavit in opposition to the summary judgment motion, who attributes words or tension to unnamed persons, unless those persons are available for cross-examination.
11. Any complaint by plaintiff or his counsel about the fact that the local law enforcement agencies took action related to the picket; this is a topic about which they have complained in this record; it is irrelevant to any claims by plaintiff; if he and his counsel think the police should not take action when someone is picketing in the area, this is not the proper forum to raise it; doing so is designed to invoke prejudice and is likely to do so given the unpopular nature of defendants’ message.
12. Any expert testimony about the reason for funeral or burial rituals or ceremonies, whether military or civilian, of any kind. There is no evidence in this case that any ritual or ceremony was disallowed, interrupted, limited, removed from the agenda, or otherwise impacted; in fact all of the evidence is that every bit of the funeral as planned was done; further any such information of evidence is irrelevant.

13. Any reference to any statement by any defendant to any member of the media regarding the picket of March 10, 2006, or during the picket of March 10, 2006. Plaintiff did not plead damages based on what any defendant said to anyone in the media; thus any content of that protected activity is not at issue in this case. Further, any such information is irrelevant.
14. Any reference to any financing of the picketing in general by defendants; any reference to the financing of Web pages; or any other financial issue. The picketing in general is not in issue; the finances of the parties beyond their net worth (assuming plaintiff makes any showing of entitlement to punitive damages) are not relevant. Nor should plaintiff be allowed to ask about the net worth of any defendant until the Court makes a determination based on the evidence that a claim for punitive damages has been substantiated.
15. Reference to any allegation that school children were told not to look out the windows at the picket signs, that playground activity was rescheduled, or anything else about the schools and school children in the area, on March 10, 2006. This case does not contain allegations that picketing was done outside of a school improperly. Any desire by school officials to have children avoid the message is not relevant to this case; the school children were allowed to leave the school and hold their own picket signs during and after the funeral. Thus any reference to this subject would be designed only to prejudice, and not be relevant to anything in this case.

Throughout these proceedings plaintiff has repeatedly complained about the content of defendants' religious message, in various contexts, well beyond the single picket at issue in this case. Yet at the same time plaintiff has repeatedly claimed defendants are not on trial for their religious viewpoints. Therefore, to avoid prejudice to defendants, and to avoid running afoul the First Amendment, defendants ask that the Court issue its order prohibiting inquiry into or comment about any of these items, any one of which would be substantially prejudicial, and would prevent defendants from having a fair trial; and/or such evidence would amount to defendants being put on trial for what they believe. The only thing plaintiff has established in this record is that defendants stood a thousand feet from the church, picketing on a public right of way, before a funeral started, where those going to the funeral could not see or hear them, engaging in religious picketing. If that is a sufficient reason for liability, plaintiff should proceed to trial on that basis – and nothing more. No mention of any content issue should be permitted, and no bootstrapping in of hearsay or other incompetent or irrelevant evidence.

Respectfully submitted,



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Rebekah A. Phelps-Davis

Pro Se Defendant

1216 Cambridge

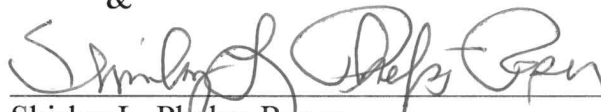
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&



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**CERTIFICATE OF SERVICE**

We hereby certify that the foregoing Motion in Limine was served on October 10, 2007, as follows:

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

U S District Court Clerk  
101 W. Lombard Street, 4<sup>th</sup> Floor  
Baltimore, MD 21201

Copy delivered by regular mail to:

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Rebekah A. Phelps-Davis, Defendant Pro Se



Shirley L. Phelps-Roper, Defendant Pro Se