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May 1, 2009

Todd Rubenstein
Morris Yorn Barnes & Levine
Third Floor, North Tower
2000 Avenue of the Stars
Los Angeles, CA 90067

Re: Our client, National Organization for Marriage, Inc., and your client, Mario Lavandeira a/k/a Perez Hilton

Dear Mr. Rubenstein:

This law firm represents the National Organization for Marriage, Inc. (NOM), a non-stock Virginia corporation. This is our response to your cease and desist letter dated April 30, 2009, sent by email.

No permission was required and no permission was sought from Mr. Lavandeira for use of the approximately three second clip of the video he posted on the Internet of his unjustified and unprofessional diatribe against and personal attack on Carrie Prejean, Miss California, for her response to his question at the Miss USA Competition, April 19, 2009. NOM's use of this three second video clip is protected by 17 U.S.C. § 107 for the purpose of criticism, comment, news reporting, and education as it relates directly to NOM's exempt purpose. NOM's use is not a commercial use, but as an issue advocacy advertisement it is protected by the First Amendment to the U.S. Constitution and the fair use doctrine of the Copyright Act.

The fair use doctrine under federal copyright law has even wider application when use relates to issues of public concern and/or political use, e.g., same-sex marriage. See *National Rifle Association of America v. Handgun Control Federation of Ohio*, 15 F.3d 559 (6th Cir. 1994); and *Hustler Magazine v. Moral Majority*, 796 F.2d 1148 (9th Cir. 1986).

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For the above reasons, the National Organization for Marriage rejects your demand that it cease and desist from broadcasting its lawful television advertisements or posting the ad on the Internet. Further, it is ironic that your client is claiming copyright protection for use of this clip, when his own website, a commercial venture, contains hundreds of images and clips of celebrities and others, most likely without obtaining permission.

Any further communications should be directed to me. Thank you.

Sincerely,

BOPP, COLESON & BOSTROM

A handwritten signature in black ink, appearing to read "Barry A. Bostrom". The signature is written in a cursive, flowing style with a large initial "B".

Barry A. Bostrom