

**Testimony of Fay Clayton  
Senior Partner and Founding Shareholder  
Robinson Curley & Clayton, P.C.**

**Hearing on  
“The Pricing of Fetal Tissue”**

**Before the Select Investigative Panel  
of the Committee on Energy and Commerce  
U.S. House of Representatives**

**April 20, 2016**

I come to testify, in my personal capacity, despite having been out of town the past three weeks with a family health situation, because my family and I strongly support women’s reproductive health and medical research, both of which are being threatened by these proceedings. Like millions of women in this country, for many decades I and members of my family have turned to Planned Parenthood for health care. I also have instructive experience to share relating to the issues before the Select Panel.

I’ve practiced law in Chicago since 1978, where I’ve focused on corporate litigation. Back in 2000, I represented the Anatomical Gift Foundation, a nonprofit corporation that provided donated tissue to medical researchers. An anti-abortion group, Life Dynamics, had released a supposedly damning expose accusing that foundation of selling fetal tissue, which is illegal. The video featured a former AGF employee – whose identity was disguised – saying he’d seen all manner of horrible and unlawful practices. Life Dynamics aggressively promoted the video to the media and elected officials. 20/20 ran a sensational television segment, and the House health and environment subcommittee convened hearings. AGF was demonized and threatened with violence.

As it happened, an AGF employee had recently quit and gone to work for another company in violation of his contract, and AGF hired me to represent the company. That former employee's name was Dean Alberti. In his deposition – which was, of course, taken under oath – Mr. Alberti admitted that he was the man in the Life Dynamics video and that his key statements in that video were fiction. He admitted making those false statements because Life Dynamics had paid him to do it, and he needed the money. Mr. Alberti repeated his fabricated charges on 20/20; but he knew better than to lie under oath when I deposed him.

Those who were here in 2000 likely recall what happened next. Republicans on that House subcommittee saw their star witness, Dean Alberti, go up in flames as he admitted what he'd said in the much-touted video was false. The hearings established that my client, AGF, had done nothing wrong, and that fetal tissue wasn't "for sale" at all. What was for sale was phony witness testimony, bought and paid for by opponents of abortion.

All indications are that the accusations in the "sting" videos about Planned Parenthood wouldn't fare any better if this Select Panel subpoenaed their producer, David Daleiden, and his star witness, Holly O'Donnell, to testify under oath. As we know, when Mr. Daleiden went under oath before a grand jury, which was demanded by an openly anti-abortion lieutenant governor to investigate Planned Parenthood, the Texas grand jury not only exonerated Planned Parenthood, it indicted Mr. Daleiden.

We also know that a federal judge, the Honorable William Orrick of the United States District Court for the Northern District of California, enjoined Mr. Daleiden from releasing additional heavily doctored videos because viewing all the footage in context – as Judge Orrick did – revealed Daleiden's edited versions were "fraudulent."

Also, as we know from an investigation by the *Los Angeles Times*, the unedited videos show Mr. Daleiden extensively coaching and manipulating the testimony of Ms. O'Donnell. Her video interview looks more like a theatrical performance than a display of true emotion. Without placing them under oath and subjecting them to cross-examination, we have no way of knowing what Mr. Daleiden said or offered to Ms. O'Donnell when his cameras weren't running.

Any investigation worthy of the name would begin with taking sworn testimony from Mr. Daleiden, Ms. O'Donnell, and their associates. That would be the case even without the striking similarities to the AGF episode sixteen years ago.

I've represented corporations and individuals in business litigation nearly four decades, including companies that were accused of wrongdoing by their employees and employees who leveled such accusations. There is no bigger tell about the veracity of an accusation than when the accuser won't stand by his or her statement under oath. As *Roll Call* quoted Dean Alberti saying in 2000, "When I was under oath, I told the truth. Anything I said in the video when I was not under oath, that's a different story."

The Select Panel's failure to subpoena the accusers here, or their failure to attend voluntarily, sends the message that these accusers' stories wouldn't hold up any better under penalty of perjury than the baseless slurs made by Life Dynamics and Dean Alberti in 2000. The fact that the Select Panel has been using its subpoena power to compel testimony from health care providers and medical researchers – who have better things to do with their time than Mr. Daleiden does – suggests the Panel is not genuinely interested in public policy at all. Unless this Select Panel is willing to put Mr. Daleiden and his associates under oath and get to the bottom of what *they* did, it should terminate these proceedings now and return to doing the people's business.