



## Stephen Clark

President Trump nominated Stephen Clark to serve on the U.S. District Court for the Eastern District of Missouri on April 10, 2018. Clark is anti-choice.

### Career

- Bachelor of Arts, University of Notre Dame, 1988
- Juris Doctorate, Saint Louis University, 1991
- Associate, Greensfelder, Hemker & Gale, P.C., 1991-1998
- Officer, Greensfelder, Hemker & Gale, P.C., 1998-1999
- Shareholder, Polsinelli Shalton Welte Suelthaus PC, 1999-2006
- Partner, Husch Blackwell Sanders LLP, 2006-2008
- Managing Partner, RUNNYMEDE Law Group, 2008-present

### Record on Choice-Related Issues

#### Court Cases

- In *Korte v. Health and Human Services*, Clark submitted a brief on behalf of several anti-choice organizations, arguing that the Affordable Care Act's (ACA) contraceptive-coverage policy is arbitrary and capricious because, in crafting the policy, the government failed to consider the "significantly increased cancer and other health risks associated with hormonal contraceptives."<sup>1</sup> It goes on to assert that contraception causes a "higher risk of heart attack, stroke & cardiovascular complications," "higher risk of breast cancer," "higher risk of cervical cancer," "higher risk of liver tumors/cancer," "greater susceptibility to sexually transmitted infections," and "increased risk-taking in sexual behavior."<sup>2</sup> While birth control, like every medication, does have side effects, Clark's brief makes outlandish and inaccurate claims and is dismissive of the many health benefits of contraception, including guarding against some kinds of cancer.<sup>3</sup> Clark's brief inaccurately and irresponsibly claims that the contraceptive-coverage policy "works directly *against* women's health," and "coerc[es] religiously objecting employers to cover drugs that significantly increase risks to women's health."<sup>4</sup>

Clark consulted with so-called "medical and science advisors" in compiling the brief. Two of the advisors he worked with, as cited in the brief, are Dr. John Thorp and Dr. Angela Lanfranchi. Thorp is a well-known anti-abortion activist who travels around the country being paid to testify in favor of abortion restrictions.<sup>5</sup> He has been chided for using skewed statistics by several judges,<sup>6</sup> and one even went so far as write a supplemental opinion criticizing Thorp for his "disturbing apathy toward the accuracy of his testimony," and research that "seemed to be driven more by a bias against abortion" than by a desire for veracity.<sup>7</sup>

LanFranchi is another well-known anti-abortion activist. She co-founded the anti-choice Breast Cancer Prevention Institute, an organization dedicated to spreading misinformation about disproven connections between abortion, contraception, and cancer. Lanfranchi is known for promoting the Institute's brochure *The Pill Kills*<sup>8</sup>, which asserts not only that contraception causes cancer and cardiovascular problems, but also that it causes women to "die a violent death," and "increases suicide attempts."<sup>9</sup> Many of the ridiculous assertions from the brochure are restated in Clark's brief.

At his confirmation before the Senate Judiciary Committee, Clark asserted, "I stand behind what was in that brief."<sup>10</sup>

- Clark submitted several additional amicus briefs on behalf of anti-choice groups and individuals challenging the Affordable Care Act's contraceptive-coverage policy, which, in reality, is the greatest advancement in reproductive healthcare in a generation.<sup>11</sup>
  - In one brief filed in *Little Sisters of the Poor v. Sebelius*, Clark stated, "the Little Sisters can reasonably conclude that there is no proportionate reason that would justify their material cooperation in grave wrongs such as the taking of human life," i.e. abiding by the Affordable Care Act which guarantees no copay contraception.<sup>12</sup> This brief appears to purposely conflate abortion and contraception.
- Clark represented Jalesia McQueen in her efforts to gain rights to several frozen embryos, created with her ex-husband through in vitro fertilization. McQueen wanted to use the embryos to try for pregnancy, but her ex-husband objected, not wanting any more children with her. Two lower-courts ruled against Clark and his client, and the Missouri Supreme Court declined to hear Clark's appeal.<sup>13</sup> Throughout the case, Clark zealously asserted the "personhood" of the embryos using strongly anti-choice language and arguments including, "life begins at conception," and, "unborn children have protected interests in life, health, and wellbeing."<sup>14</sup>
  - After losing in trial court Clark appealed, and in a subsequent appellant's brief argued that, "the trial court's judgement treated the embryonic children as inanimate objects, not human beings with the same interests as other unborn children. The court's judgement was based on its incorrect determination that the embryonic children are not human beings."<sup>15</sup> Clark also suggested that the woman's existing children would "have to navigate the murky psychological waters of knowing that they had similarly-situated siblings who died at the hand of their father."<sup>16</sup>
  - In an interview, Clark said, "There is no less life in small masses of cells in the embryonic state than there is for you and me in flesh and blood."<sup>17</sup>
- Clark represented the anti-choice group Missouri Roundtable for Life and other anti-choice activists in their challenge to the Missouri Science and Innovation Reinvestment Act (MOSIRA).<sup>18</sup> The groups opposed MOSIRA out of concern that funds allocated by the law could be used embryonic stem cell research, which they oppose.<sup>19</sup>

### Notable Information

- Clark is currently on the board of directors of the anti-choice group Lawyers for Life in Missouri.<sup>20</sup>
  - Clark's name appears on an ad for Lawyers for Life that compares abortion to slavery. The ad reads, "Like the Dred Scott decision, Roe is BAD LAW."<sup>21</sup>
- Clark appeared in a video made by the Thomas International Center where he discussed "common misconceptions about *Roe v. Wade*."<sup>22</sup> According to Clark, "the common misperception is that *Roe v. Wade* decided that life does not begin until after the first trimester of a pregnancy." He asserted that the Court did not decide when life begins, and continued: "Because the court left open the question of when life begins, and because the court expressly said that the question of when life begins is a question for science to answer, that's a question that has yet to be decided by the Supreme Court. But it is a question that science has now determined, based on the developments in technology and the developments that have enabled scientists to understand when the life-changing process begins. Science has determined that the life-changing process begins at the moment of conception, at the moment of fertilization of an egg. And so the changes, the human changes, that go on in an embryo occur at the moment that the embryo is fertilized."
  - There has not been a scientific determination about when life begins, as Clark claims. In fact, if life were ever legally declared to begin at conception, it would have devastating consequences for reproductive rights: abortion would be illegal in almost all cases and some of the most common forms of contraception would be banned, as would stem-cell research and *in vitro* fertilization.
- Clark appeared in a video made by the Thomas International Center where he discussed "Catholic moral theology in the workplace."<sup>23</sup> In this video, Clark highlighted the various ways that participating in an abortion could be a sin – as examples he mentioned encouraging someone to seek abortion care, giving someone a ride to a clinic to get abortion care, or giving someone money to pay for an abortion. He then related this to the workplace, saying, "Often today we're told that your ethics, your morals, and your faith have nothing to do with the workplace and they have no business in the workplace. And that you should compartmentalize." He continued, "I would encourage people that life isn't that simple and that we cannot compartmentalize... And that when we're asked to participate in sin in the workplace... we're being asked to violate our conscience rights. So I encourage you to consider and to stand up for your conscience rights."
  - Certainly, by Clark's definition, a judge who set aside his or her personal views to follow *Roe* and its progeny would be compartmentalizing and participating in sin, actions which Clark specifically instructed people not to do. As such, either Clark's views on morality in the workplace have changed drastically since 2016 or he was not truthful in his confirmation hearing when he assured the Committee that he would "set aside all of [his] personal beliefs" and "would have no problem following [*Roe*, *Casey*, and *Whole Woman's Health*]."<sup>24</sup>

- In a February 2016 presentation at Duke University entitled “Pious and Professional: Living the Faith at Work,” Clark discussed dilemmas that religious people, “primarily [those of] Christian faiths,” face in the workplace and how they should handle them:<sup>25</sup>
  - In the presentation, he asked students to consider what they would do if they were in medical school and were asked to do a rotation with Planned Parenthood, because Planned Parenthood is “training the abortionists of the future.” Similarly, he asked students to think about what they would do if they were attorneys asked to work on a brief filed in the Supreme Court in support of equal marriage. He continued, “One of the next evolutions of same-sex marriage is polygamy” and asked students to consider what they would do if asked to work on a brief in support of polygamy.
  - Clark asserted that he resigned from two law firms because those firms represented clients that supported stem cell research, and that he was not willing to “compartmentalize” his beliefs at work.<sup>26</sup> He also discussed founding his own firm, which does “pro-life work, because that’s the roots of our firm.”
  - In the same speech, Clark stated that he found it “very, very fulfilling and rewarding for me to be able to do pro-life legal work.” In follow-up written questions after his committee hearing, Clark clarified that by “pro-life legal work” he meant “representing as an attorney/advocate clients that assert positions favoring the right to life.”<sup>27</sup>
  
- In a February 2012 presentation to the Lawyers for Life group, Clark discussed legal strategies that attorneys could use to intimidate or obstruct abortion providers.<sup>28</sup> His specific suggestions included seeking the appointment of a guardian ad litem for a fetus and using injunctions and restraining orders to prevent abortion providers from doing their jobs. He also recommended seeking help from fake women’s health centers, also known as crisis pregnancy centers, and his presentation included a list of local fake clinics in Missouri.
  
- Clark represented far-right activist Phylis Schlafly in a suit over the extremist political group she founded, the Eagle Forum. Schlafly is known for her opposition to women’s and LGBTQ rights. She has alleged that the goal of equal marriage advocates was “to wipe out the Christian religion,” and regularly discussed her idea of the ideal couple, where “a provider-husband is the principle breadwinner and his wife is dedicated to the job of homemaker.”<sup>29</sup>
  
- Clark is active in the conservative, anti-choice Federalist Society.<sup>30</sup> The Federalist Society is led by Leonard Leo, the anti-choice activist who is heavily involved in selecting Trump’s Supreme Court and lower court nominees. Leo has been outspoken in his anti-choice views, calling abortion “an act of force” and “a threat to human life,”<sup>31</sup> and serves as co-chairman of Students for Life,<sup>32</sup> a group whose mission is to “abolish abortion.”<sup>33</sup>
  
- Clark has donated to anti-choice politicians including Roy Blunt and French Hill.<sup>34</sup>
  - Clark served as a fundraiser co-host for anti-choice Sen. Roy Blunt.<sup>35</sup>

### **Record on Other Key Issues**

- In a 2016 video, Clark opined on how a “conservative justice” would have ruled in *Obergefell v. Hodges*.<sup>36</sup> He said, “There is no constitutional right to same-sex marriage. [Conservative justices] would say that if you look in the text of the constitution, you would find no such right. And that for 2,000 years or more, marriage has been between one man and one woman.”
- Clark is a member of the National Rifle Association.<sup>37</sup>

July 31, 2018

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<sup>1</sup> Brief Amicus Curiae of Breast Cancer Prevention Institute, Bioethics Defense Fund, and Life Legal Defense Foundation In Support of Plaintiffs-Appellants and Reversal, *Korte v. Health and Human Services* (7<sup>th</sup> Cir. 2013) (No. 12-3841)

<sup>2</sup> Ibid.

<sup>3</sup> Amanda MacMillan, *No, Birth Control Doesn't Cause Cancer (In Fact, It Protects Against It)*, HEALTH (July 13, 2017), <http://www.health.com/birth-control/birth-control-cancer-risk; How safe is the birth control pill?>, PLANNED PARENTHOOD, <https://www.plannedparenthood.org/learn/birth-control/birth-control-pill/how-safe-is-the-birth-control-pill> (last visited June 6, 2018)

<sup>4</sup> Brief Amicus Curiae of Breast Cancer Prevention Institute, Bioethics Defense Fund, and Life Legal Defense Foundation In Support of Plaintiffs-Appellants and Reversal, *Korte v. Health and Human Services* (7<sup>th</sup> Cir. 2013) (No. 12-3841)

<sup>5</sup> Imani Gandy, *When Does an Error Become a Lie? The Case of the Missing Decimal Point*, REWIRE (April 24, 2015), <https://rewire.news/article/2015/04/24/error-becomes-lie-missing-decimal-point/>

<sup>6</sup> *Judge, doctor clash in Wisconsin abortion case*, ASSOCIATED PRESS (May 29, 2014), <https://thedailyrecord.com/2014/05/29/judge-doctor-clash-in-wisconsin-abortion-case/>; Molly Redden, *Judge Rips Alabama for Hiring a Discredited Abortion Foe*, MOTHER JONES (Oct. 21, 2014), <https://www.motherjones.com/politics/2014/10/judge-rips-alabama-hiring-discredited-abortion-foe/>

<sup>7</sup> *Planned Parenthood Southeast v. Strange*, 33 F.Supp.3d 1381 (M.D. Ala. 2014)

<sup>8</sup> *Abortion Hurts Women's Health Panel*, LOUISIANA RIGHT TO LIFE (Nov. 14, 2013), [https://www.youtube.com/watch?v=Q6zJzIRr\\_EA](https://www.youtube.com/watch?v=Q6zJzIRr_EA)

<sup>9</sup> *The Pill Kills*, BREAST CANCER PREVENTION INSTITUTE, <https://www.bcpinstitute.org/uploads/1/1/5/1/115111905/bcpi-pill-kills-brochure2.pdf> (last visited June 6, 2018)

<sup>10</sup> *Nominations Hearing*, SENATE JUDICIARY COMMITTEE (July 11, 2018), <https://www.judiciary.senate.gov/meetings/07/11/2018/nominations>

<sup>11</sup> Corrected Brief of 28 Catholic Theologians and Ethicists as Amici Curiae Supporting Plaintiffs-Appellants and Urging Reversal of the District Court, *Gilardi v. Health and Human Services* (D.C. Cir. 2013) (No. 13-5069); Brief of 67 Catholic Theologians and Ethicists as Amici Curiae in Support of Appellants and Requesting Reversal, *Little Sisters of the Poor v. Sebelius* (10<sup>th</sup> Cir. 2014) (No. 13-1540); Brief of the Right Reverend W. Thomas Frerking, OSB, and Missouri RoundTable for Life As Amici Curiae in Support of Appellants and Urging Reversal, *Hobby Lobby Stores v. Sebelius* (10<sup>th</sup> Cir. 2013) (No. 12-6294); Brief of the Right Reverend W. Thomas Frerking, OSB, and Missouri RoundTable for Life as Amici Curiae in Support of Appellants and Urging Reversal, *Annex Medical v. Sebelius* (8<sup>th</sup> Cir. 2013) (No. 13-1118)

<sup>12</sup> Brief of 67 Catholic Theologians and Ethicists as Amici Curiae in Support of Appellants and Requesting Reversal, *Little Sisters of the Poor v. Sebelius* (10<sup>th</sup> Cir. 2014) (No. 13-1540)

<sup>13</sup> Kevin Killen, *Missouri Supreme Court Refuses to Hear Frozen Embryos Case*, CBS ST. LOUIS (Feb. 1, 2017), <https://stlouis.cbslocal.com/2017/02/01/missouri-supreme-court-refuses-to-hear-frozen-embryos-case/>

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- <sup>14</sup> Kevin Killeen, *Frozen Embryo Custody Fight in Appeals Court*, CBS ST. LOUIS (June 1, 2016), <https://stlouis.cbslocal.com/2016/06/01/frozen-embryo-custody-fight-in-appeals-court/>
- <sup>15</sup> Appellant's Brief at 13, *McQueen v. Gadberry* (Mo. App. 2015) (No. ED103138), <http://embryodefense.org/wp-content/uploads/2016/06/McQueen-Brief.pdf-1.pdf>
- <sup>16</sup> Appellant's Brief at 22, *McQueen v. Gadberry* (Mo. App. 2015) (No. ED103138), <http://embryodefense.org/wp-content/uploads/2016/06/McQueen-Brief.pdf-1.pdf>
- <sup>17</sup> *Missouri court: Man must consent before ex-wife can use their embryos*, KOMU8, <http://www.komu.com/videos/missouri-court-man-must-consent-before-ex-wife-can-use-their-embryos> (last visited May 29, 2018)
- <sup>18</sup> *Missouri Roundtable for Life v. State*, 396 S.W.3d 348 (Mo. 2013)
- <sup>19</sup> Jason Rosenbaum, *Missouri Supreme Court strikes down MOSIRA as unconstitutional*, *St. Louis Public Radio* (March 19, 2013), <http://news.stlpublicradio.org/post/missouri-supreme-court-strikes-down-mosira-unconstitutional#stream/0>
- <sup>20</sup> *Questionnaire for Judicial Nominees: Stephen Clark*, UNITED STATES SENATE COMMITTEE ON THE JUDICIARY; <HTTPS://WWW.JUDICIARY.SENATE.GOV/IMO/MEDIA/DOC/CLARK%20SR.%20SJQ1.PDF>
- <sup>21</sup> *Questionnaire for Judicial Nominees: Stephen Clark*, UNITED STATES SENATE COMMITTEE ON THE JUDICIARY; <HTTPS://WWW.JUDICIARY.SENATE.GOV/IMO/MEDIA/DOC/CLARK%20SR.%20SJQ1.PDF>
- <sup>22</sup> *Questionnaire for Judicial Nominees: Stephen Clark*, UNITED STATES SENATE COMMITTEE ON THE JUDICIARY; <HTTPS://WWW.JUDICIARY.SENATE.GOV/IMO/MEDIA/DOC/CLARK%20SR.%20SJQ1.PDF>
- <sup>23</sup> *Questionnaire for Judicial Nominees: Stephen Clark*, UNITED STATES SENATE COMMITTEE ON THE JUDICIARY; <HTTPS://WWW.JUDICIARY.SENATE.GOV/IMO/MEDIA/DOC/CLARK%20SR.%20SJQ1.PDF>
- <sup>24</sup> *Nominations Hearing*, SENATE JUDICIARY COMMITTEE (July 11, 2018), <https://www.judiciary.senate.gov/meetings/07/11/2018/nominations>
- <sup>25</sup> *Questionnaire for Judicial Nominees: Stephen Clark*, UNITED STATES SENATE COMMITTEE ON THE JUDICIARY; <HTTPS://WWW.JUDICIARY.SENATE.GOV/IMO/MEDIA/DOC/CLARK%20SR.%20SJQ1.PDF>
- <sup>26</sup> *Questionnaire for Judicial Nominees: Stephen Clark*, UNITED STATES SENATE COMMITTEE ON THE JUDICIARY; <HTTPS://WWW.JUDICIARY.SENATE.GOV/IMO/MEDIA/DOC/CLARK%20SR.%20SJQ1.PDF>
- <sup>27</sup> Stephen Clark, *Responses to Questions for the Record*, SENATE JUDICIARY COMMITTEE, <https://www.judiciary.senate.gov/imo/media/doc/Clark%20Responses%20to%20QFRs.pdf>
- <sup>28</sup> *Questionnaire for Judicial Nominees: Stephen Clark*, UNITED STATES SENATE COMMITTEE ON THE JUDICIARY; <HTTPS://WWW.JUDICIARY.SENATE.GOV/IMO/MEDIA/DOC/CLARK%20SR.%20SJQ1.PDF>
- <sup>29</sup> Lucas Grindley, Phyllis Schlafly, *One of History's Worst Homophobes, Dies at 92*, *THE ADVOCATE* (Sept. 5, 2016), <https://www.advocate.com/people/2016/9/05/phyllis-schlafly-one-historys-worst-homophobes-dies-92>
- <sup>30</sup> *Questionnaire for Judicial Nominees: Stephen Clark*, UNITED STATES SENATE COMMITTEE ON THE JUDICIARY; <HTTPS://WWW.JUDICIARY.SENATE.GOV/IMO/MEDIA/DOC/CLARK%20SR.%20SJQ1.PDF>
- <sup>31</sup> Jeffrey Toobin, *The Conservative Pipeline to the Supreme Court*, *THE NEW YORKER* (April 17, 2017), <https://www.newyorker.com/magazine/2017/04/17/the-conservative-pipeline-to-the-supreme-court>
- <sup>32</sup> *Board of Directors*, STUDENTS FOR LIFE, <http://studentsforlife.org/supporters/board-of-directors-1> (last visited July 5, 2018)
- <sup>33</sup> *Mission Statement*, STUDENTS FOR LIFE, <http://studentsforlife.org/about/mission-statement/> (last visited July 5, 2018)
- <sup>34</sup> *Donor Lookup: Stephen Clark*, OPEN SECRETS, <https://www.opensecrets.org/donor-lookup/results?name=Stephen+Clark&cycle=&state=MO&zip=&employ=&cand=> (last visited June 5, 2018)
- <sup>35</sup> *Questionnaire for Judicial Nominees: Stephen Clark*, UNITED STATES SENATE COMMITTEE ON THE JUDICIARY; <HTTPS://WWW.JUDICIARY.SENATE.GOV/IMO/MEDIA/DOC/CLARK%20SR.%20SJQ1.PDF>
- <sup>36</sup> *Questionnaire for Judicial Nominees: Stephen Clark*, UNITED STATES SENATE COMMITTEE ON THE JUDICIARY; <HTTPS://WWW.JUDICIARY.SENATE.GOV/IMO/MEDIA/DOC/CLARK%20SR.%20SJQ1.PDF>
- <sup>37</sup> *Questionnaire for Judicial Nominees: Stephen Clark*, UNITED STATES SENATE COMMITTEE ON THE JUDICIARY; <HTTPS://WWW.JUDICIARY.SENATE.GOV/IMO/MEDIA/DOC/CLARK%20SR.%20SJQ1.PDF>