

A champion of free speech?

To see those Bill of Rights commercials on TV, you'd think sponsor Philip Morris must rank up there with Patrick Henry and Thomas Jefferson as a champion of free expression.

Yet when Dr. Alan Blum of Houston dared to question Miller Beer's sponsorship of a Special Olympics benefit, Philip Morris-owned Miller slapped a lawsuit on Blum and his protest group Doctors Ought to Care (DOC).

I know Blum. He's a likable merry prankster. Want to know what terrible crime he committed? Since fetal-alcohol syndrome is a major cause of mental retardation in the United States, Blum felt it was hypocritical for an alcoholic beverage company to sponsor a Special Olympics benefit.

So Blum (assuming the Bill of Rights applied to him) printed up and sold some satirical Miller Lite T-Shirts. Only instead of "Miller Lite," DOC's T-shirts said "Killer Lite" and instead of "We're Having a Party," the new slogan read "We're pushing a drug."

Keep in mind Blum has been satirizing the parent company Philip Morris for years for their addictive tobacco products. Philip Morris hauls in 40% of all domestic cigarette sales in the United States and, together with its Kraft and Miller divisions, outspends even Procter & Gamble on advertising. PM is the top U.S. advertiser. A giant, right?

Yet this corporate Goliath sicced Miller on little Doc Blum — arguing the 35 T-shirts DOC sold constituted a trademark infringement and would harm the brewery. This so-called corporate



Tony Lang

champion of rights first sought a preliminary injunction against the T-shirts, then sought a permanent injunction, with triple damages and attorneys' fees.

Such lawsuits have been dubbed SLAPPs (Strategic Lawsuits Against Public Participation). SLAPPs, I'm told, are multiplying. Their aim is not so much to win as to intimidate. A corporation with deep pockets (and Philip Morris has very deep pockets) sets out to teach its critics that free speech can be expensive. A lot more expensive than it is for Philip Morris.

Philip Morris has budgeted \$60 million for its two-year Bill of Rights ad campaign. Two years of corporate image-polishing by Philip Morris. Afterwards, those precious documents from the National Archives may need a ceremonial cleansing.

The commercials may be a violation of federal law. Nov. 22, Congressman Thomas Luken asked a legal opinion from Attorney General Richard Thornburgh on whether the ads violate the Federal Cigarette Labeling and Advertising Act which prohibits cigarette ads on TV and requires a surgeon general's warning label in print ads. Print ads for the Bill of Rights carry the Philip Morris name and trademark but no warn-

ing labels. When Thornburgh gets around to replying, he could open a helluva can of worms however he responds.

Over the years, I have been assured by several sources close to the legislative history of the law that the tobacco companies privately asked for the TV ad ban, since they were getting clobbered by counter TV ads required at the time. Now, in 1989, Philip Morris comes alithering back on TV with its all-American, hand-on-heart Bill of Rights campaign. In a memorandum of understanding with Philip Morris, the National Archives even agreed that it "will use its best efforts to assist Philip Morris in securing any permission that may be required for it to use the voices of leading Americans, including former American presidents" in the ads.

So Philip Morris has been milking it for all its worth. In the commercials, you hear Martin Luther King, you see synagogues, you hear Baptist choirs (Do Baptists smoke Marlboros and drink Miller Lite?), and any day now I expect Philip Morris will wheel out choirs of cherubim and seraphim.

Every time you see one of those commercials, just remember Doc Blum with his T-shirts trying to exercise his free-speech rights and getting hauled into court by Philip Morris. Some champion of free speech.

Tony Lang is a staff columnist for The Enquirer.