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INTRODUCTION OF THE KEYNOTE PRESENTATION

DEAN BERNARD REAMS*

It is my pleasure to introduce Mr. Michael S. Popkin. If we were to rely on an old custom in which we referred to the Attorney General as "General," Mr. Popkin as should be called "General Popkin." Mr. Popkin has served as the Assistant Attorney General for the State of New York since 1993.¹ He also served as the Assistant Attorney General for the State of Maine from 1989 through 1992² and prior to that was in private practice. He received both his B.A. and J.D. degrees from Boston University.³

From the case's inception, Mr. Popkin has been primarily responsible for *Quill v. Vacco*,⁴ the well-publicized case seeking recognition of a constitutional right to physician-assisted suicide.⁵ He argued the case before the United States District Court for the Southern District of New York⁶ and before the United States

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Dean Reams has authored and co-authored thirty-four books including many legislative histories and bibliographies. He has held leadership positions in the American Association of Law Libraries, the Association of American Law Schools, and the American Bar Association. He is an elected member of the American Law Institute.

Dean Reams teaches Medical Jurisprudence and Bioethics.

1 Michael S. Popkin, Esq., is currently an Assistant Attorney General for the State of New York, based in the Manhattan offices of State Attorney General, Dennis C. Vacco.

2 See *Marquis Who's Who*, available in Westlaw Biographical Directories.

3 See *Martindale-Hubbell Law Directory*, available in Lexis.

4 117 S.Ct. 2293 (1997).

5 See *id.* at 2296 (stating that issue before Court was "whether New York's prohibition on assisting suicide. . .violat[ed] the Equal Protection Clause of the Fourteenth Amendment").

6 *Quill v. Koppell*, 870 F. Supp. 78 (S.D.N.Y. 1994). The original action sought judicial review of New York statutes criminalizing attempted suicide and aiding the commission of a suicide. *Id.* at 79. The court upheld the statutes on the ground that physician-assisted suicide did not involve a fundamental liberty interest protected by the Due Process Clause. *Id.* at 84-5.

Court of Appeals for the Second Circuit.⁷ Additionally, Mr. Popkin briefed the case for the United States Supreme Court.⁸

Mr. Popkin has tried several other noteworthy cases, including *Bin-Wahad v. Coughlin*,⁹ in which the former leader of the Black Panthers sued prison officials in New York for First Amendment violations.¹⁰ *New York HHC v. DeBuono*¹¹ concerned the HHC's disputed subsidies for the City of New York.¹² Another case, *Marisol A. v. Guiliani*,¹³ sought to establish a federal constitutional right to social services for abused and neglected children.¹⁴

Currently, Mr. Popkin is responsible for New York State's litigation against major tobacco companies.¹⁵ A recognized expert in both trial and appellate work in the areas of governmental, constitutional and health law,¹⁶ Mr. Popkin has made several television appearances in his professional capacity. Today, General Popkin will look at the development surrounding the constitu-

7 *Quill v. Vacco*, 80 F.3d 716 (2d Cir. 1996). The Second Circuit overturned the District Court's decision, holding that the statutes' prohibition against the prescription of medications for self-administration by a mentally competent, terminally ill patient, was not rationally related to a legitimate state interest. *Id.* at 731.

8 *See Vacco v. Quill*, 1996 WL 656345 (U.S. Pet. Brief). The principal question raised before the Supreme Court was:

[W]hether, under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, terminally ill, mentally competent patients who do no require artificial life support and who want to commit suicide with the assistance of a physician are similarly situated to terminally-ill, mentally competent patients who are or can be kept alive only by means of life-sustaining medical treatment, which they are free to refuse or terminate.

Id. at (i).

9 853 F. Supp. 680 (S.D.N.Y. 1994). Mr. Popkin actually tried the companion case to the foregoing, to wit: *Bin-Wahad v. Coughlin*, 870 F. Supp. 506 (S.D.N.Y. 1994) (seeking recovery of attorney's fees for the principal action).

10 *Bin-Wahad v. Coughlin*, 853 F. Supp. at 682.

11 101 F.3d 888 (2d Cir. 1996).

12 *Id.* at 893 (holding city could be compelled to reimburse parents for cost of therapy provided to disabled child by uncertified provider since denial of appropriate services was due to shortage).

13 929 F. Supp. 662 (S.D.N.Y. 1996).

14 *Id.* at 669. In *Marisol*, a designated class of plaintiff children by representation sued various New York City officials and agencies, including the Department of Human Resources Administration, for severe physical abuse and gross neglect having resulted from defendant agencies' mishandling of plaintiff-children of state and federally guaranteed rights. *Id.* at 672-74.

15 *See, e.g., Sackman v. Liggett Group*, 920 F. Supp. 357, 359-60 (E.D.N.Y. 1996) (involving products liability action against cigarette manufacturer wherein plaintiff sought to compel discovery of results of public health research purportedly damaging to defendants' case); *see also Kurzweil v. Philip Morris Companies, Inc.*, 1997 WL 167043 (S.D.N.Y.) (alleging violation of federal securities laws through official position that nicotine was not addictive and that smoking was entirely a matter of choice in contradiction to their own scientific evidence and that of government and other anti-smoking advocates).

16 *See Marquis Who's Who*, available in Westlaw Bibliographical Directories.

tional litigation on assisted suicide.¹⁷

¹⁷ See *Compassion in Dying v. State of Washington*, 79 F.3d 790 (9th Cir. 1996) (discussing how the Ninth Circuit struck down a similar law in Washington State); see also *People v. Kevorkian*, 527 N.W.2d 714, 716 (Mich. 1994) (reversing Dr. Jack Kevorkian's conviction and holding that assistance by providing means of suicide may be prosecuted as a common-law felony in absence of statute).