

EIR amicus opposes effort to block DOJ probe of Starr

On March 8, attorneys for *Executive Intelligence Review* filed legal papers in the Federal appeals court in Washington, opposing the effort by the Richard Mellon Scaife-funded Landmark Legal Foundation to block the Justice Department's investigation of misconduct by independent counsel Kenneth Starr.

EIR's amicus curiae brief shows that the Landmark Legal Foundation, while posing as a disinterested party, "is itself deeply enmeshed in the network of foundations, lawyers, and private citizens which are likely to be the subject of inquiry by the Attorney General," and that it "has a vested interest" in asking the court to order the termination of the Attorney General's probe. *EIR's* brief shows that Landmark itself was covertly working with the *American Spectator* magazine's Scaife-funded "Arkansas Project" in the spring of 1994 to recruit lawyers for Paula Jones. Landmark also sided with Jones's lawyers in challenging President Clinton's legal claim that he was immune from civil suit—an effort in which Kenneth Starr was also involved before he was appointed independent counsel. Landmark later attempted to conceal its role in this effort. Here are the text of *EIR's* motion and brief:

**UNITED STATES COURT OF APPEALS
FOR THE
DISTRICT OF COLUMBIA CIRCUIT**

**Division for the Purpose of
Appointing Independent Counsels Ethics in
Government Act of 1978, As Amended**

In re: Madison Guaranty
Savings & Loan Association

**MOTION OF EXECUTIVE
INTELLIGENCE REVIEW TO FILE
BRIEF AS AMICUS CURIAE**

Comes now *Executive Intelligence Review* and moves this Court to allow it to file the attached Brief, as amicus, in opposition to the "Application for Judicial Notice and Writ of Prohibition" submitted by the Landmark Legal Foundation.

Interest of Executive Intelligence Review and Reasons Why the Brief As *Amicus Curiae* is Desirable

Executive Intelligence Review is a weekly news magazine founded by Lyndon H. LaRouche, Jr. It has provided comprehensive investigative reporting concerning the actions of Independent Counsel Kenneth Starr. The United States Department of Justice, will, undoubtedly oppose the motion of Landmark to halt the Justice Department's investigation into prosecutor Starr's actions on technical grounds—such as the complete lack of standing of Landmark Legal Foundation to make the application it has made to the court, its failure to satisfy the legal criteria for granting extraordinary writs, and the prematurity and lack of any legal basis, under 28 U.S.C. 596 for any action at the present time, by this Court.

The Department of Justice is unlikely, based on past performance, to raise the most important issue regarding Landmark's application—its factual context. There has been considerable public speculation about the motives of this panel. In the context of this public debate, implicating the Court's integrity, it is imperative, before any decision is made by this Court on Landmark's application, that the Court be fully apprised of Landmark's status as an interested party and ally of the Independent Counsel and potential target of any investigation conducted by the Department of Justice.

Accordingly, the Court should grant this motion of *Executive Intelligence Review* to file the attached Brief in Opposition to the Application of Landmark Legal Foundation as a friend of the Court.

***Amicus Curiae* Brief in Opposition to the Application of a Writ of Prohibition**

On February 11, 1999 Landmark Legal Foundation filed application for a writ or prohibition and judicial notice asking this Court to prohibit the Department of Justice from investigating Independent Counsel Kenneth Starr. On February 19, 1999 the Special Division ordered U.S. Department of Justice to respond.

As stated in its motion to file this Brief in opposition to Landmark's application, *Executive Intelligence Review*, a weekly news magazine founded by Lyndon H. LaRouche, Jr., has extensively investigated and reported upon the activities

of Independent Counsel Kenneth Starr. *EIR* along with other publications, public officials and members of the public, have questioned the actions of this panel and its impartiality as they pertain to the appointment of Mr. Starr and the repeated enlargement of his jurisdiction. *EIR* believes it is in the public interest and in the interest of public confidence in the judicial process, to bring to this panel's attention certain published accounts and facts about Landmark Legal Foundation and its interest in this matter, prior to any decision which might be rendered on Landmark's application by the Court. Accordingly, *EIR* moves that this Court consider the materials set forth here by *EIR*, and take judicial notice of them pursuant to F.R.E. 201.

These materials show that Landmark is not a disinterested party in this proceeding, but rather, Landmark is itself deeply enmeshed in the network of foundations, lawyers and private citizens which are likely to be the subject of inquiry by the Attorney General. As such, Landmark itself falls squarely into the zone of inquiry and therefore has a vested interest in asking the Special Division to order the termination of the Department of Justice investigation.

According to Landmark's Exhibit 1, a *New York Times* article dated February 10, 1999, there are several issues that the Justice Department wants to examine, including contacts between Mr. Starr's office and the Paula Jones legal team. As background to this, the *Times* article reports allegations of "collusion" between Mr. Starr's office and the Jones lawyers, and reports that "Linda Tripp found her way to the Office of Independent Counsel through a group of private lawyers who performed legal work on the Jones case."

The *Times* article also states: "The [Justice Department] ethics lawyers are trying to determine whether prosecutors in Starr's office had a vested interest in the outcome of the Jones case, an interest that would have undercut their ability to impartially investigate allegations related to the lawsuit."

Petitioner also draws the Special Division's attention to a second investigation relating to Mr. Starr's office which is currently underway. This pertains to allegations that Mr. Starr's key witness in the Whitewater probe, David Hale, received payments and/or gratuities from the so-called "Arkansas Project," a venture funded by Richard Mellon Scaife which operated under the auspices of *The American Spectator* magazine and its "American Spectator Educational Foundation." Investigators have interrogated Mr. Scaife, as well as two individuals associated with him, David Henderson and Steven Boynton. See, Attachments A and B hereto.

Landmark itself was secretly involved with Henderson, Boynton, and others associated with the "Arkansas Project," in both helping to obtain lawyers for Paula Jones, and then advising them not to sue *The American Spectator* — the magazine whose January 1994 "Troopergate" story had mentioned a woman named "Paula." This chain of events was described in an account published in the on-line magazine *Salon* in April

1998. In commenting on Landmark's advice not to sue *The American Spectator*, the article notes that Landmark had received at least \$650,000 from various foundations controlled by Mr. Scaife, and it notes: "The Landmark lawyers' advice was hardly disinterested: Richard Mellon Scaife had been a major benefactor over the years of the American Spectator." See, Attachment C, (*Salon* article), p. 4.

The *Salon* article also reports, referring to Paula Jones' lawyers Gilbert Davis and Joseph Cammerata: "The two sources say that Landmark counselled those knowledgeable about its role in helping find Davis and Cammerata to keep the information confidential, fearing that the organization's ties to Scaife would be used to discredit the Jones case." Mr. Davis denied that Landmark had brought him into the case, but he acknowledged having had discussions about the case with Landmark officials. See, Attachment C, p. 6.

Mark Levin, the president of Landmark, has himself publicly acknowledged receiving funding from the Scaife foundations. See, Associated Press story dated 6/9/98, Attachment D hereto.

There have also been many published reports linking Mr. Starr to preliminary preparations of an *amicus curiae* brief arguing against presidential immunity in the Paula Jones case. Some reports have alleged that Mr. Starr was engaged by Landmark to prepare such an *amicus* brief. Landmark has denied that it paid Mr. Starr to prepare such a brief, but it has not denied consulting with him. It was well-known, and Mr. Starr has acknowledged, that he was intending to author or co-author an *amicus* brief in the Jones case prior to his appointment as Independent Counsel by the Special Division in August 1994. Indeed, Mr. Starr did acknowledge, in his testimony to the House Judiciary Committee on November 19, 1998, that he did have discussions with the Independent Women's Forum about the immunity issues with respect to the filing of an *amicus* brief. See Attachment E hereto.

In its own promotional material, Landmark lists among its accomplishments:

Challenged President Clinton's unprecedented claim of civil immunity in his effort to delay and dismiss Paula Corbin Jones' sexual harassment lawsuit.

See Attachment F hereto.

Petitioner asks the Special Division to accept this application for Judicial Notice, and petitioner urges the Special Division to deny Landmark's Application for a Writ of Prohibition instructing the Attorney General to cease any investigation of Independent Counsel Kenneth Starr.

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