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BONNIE ERBE: This week on *To the Contrary*, first, do corporations' religious beliefs trump women's right to contraceptives? Then, a celebrity custody battle pits a mother against her own fetus. Behind the headlines, edgy, snarky, and smart, Jezebel.com's contribution to women's media.

(Musical break.)

MS. ERBE: Hello, I'm Bonnie Erbe. Welcome to *To the Contrary*, a discussion of news and social trends from diverse perspectives. Up first, religious freedom versus birth control.

The Supreme Court will hear a challenge to "Obamacare's" contraception mandate. Under the Affordable Care Act, private companies must provide health insurance that includes contraception coverage for all female employees. But some businesses object on religious grounds.

The craft store Hobby Lobby and a chain of Christian bookstores sued the federal government saying their religious freedom is being violated. One federal appeals court agreed, but three others said the law does not require the owners to provide the coverage. Now, the Supreme Court will decide if for profit corporations can use religion to object to a federal law.

So Congresswoman Norton, do corporations have a right to religious freedom and their religious beliefs.

ELEANOR HOLMES NORTON: No, no, no, no. Corporations don't worship. They don't pray. They don't meditate. They're there to make money, so no.

LINDA CHAVEZ: Well, the Supreme Court in the Citizens United case said that they had at least partial First Amendment rights with political speech. Now, we'll see if they really meant it.

MEGAN BEYER: Well, absolutely not and that was bad precedence. They, in that case, said that donations were essentially free speech, that corporations were individuals. So you never know what could happen.

FRANCESCA CHAMBERS: I hate to give the tough love here, but if you don't like it, go work somewhere else.

MS. ERBE: Well, but should that – I mean, should a corporation just because the creator of a corporation has certain religious beliefs, does that mean that his corporation should have those beliefs and be able to violate otherwise completely valid federal law to pursue those beliefs.

MS. CHAMBERS: Well, here is the thing about a Christian bookstore. Everyone wants to talk about Hobby Lobby. They also own Mardel's, very big Christian bookstore where I live. And everyone knows who works there that it's a Christian bookstore. I don't understand how you can work at a Christian bookstore and then be surprised when they want to push their Christian values on you.

DEL. NORTON: Oh, come on. People work at Catholic hospitals and they're not – and –

MS. CHAMBERS: And shouldn't be surprised –

DEL. NORTON: And –

MS. ERBE: But I also – Eleanor, I don't understand something here because didn't the Obama – didn't the White House make it so that they don't have to – the corporations don't purchase this insurance. It's made available free, right?

DEL. NORTON: They don't purchase it. They don't contribute to it. They have nothing to do with delivering the contraception.

MS. ERBE: So do they actually have standing then or should they have standing?

DEL. NORTON: Well, I'm not sure how – well, they got this far, frankly. They got through two courts of appeals. So the – you know – just a moment. The right to speak, which is a right, is very different from saying that corporations have the Bill of Rights, the whole of Bill of Rights and speech – speech, the court found, was money – the contribution was a form of speech. Now, I defy you to find a form of – (inaudible) – worship that comes from a corporation, not a person and not the person who may be one of those who started the bookstore, but now has started the corporation. It's the corporation –

MS. CHAVEZ: Let me step here because I probably am the only person who sits on a corporate board of directors on this table. And I will tell you that, first of all, you're wrong, Eleanor. Corporations do in fact purchase insurance. And many corporations today self-insure, so that they may use Blue Cross Blue Shield or some other insurer.

DEL. NORTON: Not the – contraception is what she was talking about. They don't have to purchase the contraception for the insurance.

MS. CHAVEZ: They have to purchase the coverage that guarantees the contraception. Now, look, I think corporations and employers should not be in the business of anything to do with insurance. I think everyone ought to have individual insurance and corporations should not be the conduit through which they get insurance. But that – but that issue, I mean, they have put it on the table now by requiring the certain procedures be covered. And so I think we're going to find out and whether or not your

interpretation of part of the First Amendment applying to corporations is correct or whether or not the Supreme Court believes that the entire part of the First Amendment, entire First Amendment, which includes freedom of religion, does apply to corporations. And we'll find out. I don't know the answer to that.

MS. BEYER: I looked up Justice Stevens' dissent on Citizens United and I thought he made a really good point that what happens when you consider a corporation an individual and provide the same freedoms to a corporation is that they have undue influence. And that certainly would apply here, where a company would be exercising this freedom of religion, perhaps, and what would happen to the freedom of religion for the employees who work there, that it would trump their religious freedom.

MS. ERBE: Yeah, I don't – what I don't get about this First Amendment argument at all, I must say, and I'm glad, Professor, you explained – Eleanor teaches at my law school alma mater, Georgetown. And when I studied the First Amendment and the religious freedom part, it had to do with the government not being able to tell you how or what to do or what to worship. Some – that means like, you know, going back to the Founders, that means the crown not being able to force you to be an Episcopalian, OK? It doesn't – and to tax you as such. It has nothing to do with whether in this minute area a company should have the right to tell somebody else you have to abide by my religion. That's tyranny.

MS. CHAVEZ: But Bonnie, let me –

MS. ERBE: That is tyranny –

MS. CHAVEZ: But Francesca had the main point. And that is that no one forces you to work for any particular employer. You are in fact able to take a job or not take a job based on what the employer's rules are.

MS. ERBE: But let me ask you. Let's say you work for a Wiccan organization and they started telling you you had to observe their rules.

MS. CHAVEZ: I would leave. I would leave.

MS. CHAMBERS: I would never work for a Wiccan organization –

MS. CHAVEZ: I would leave. I would leave.

MS. ERBE: But you think every person who works for what – I think I heard they had 15,000 employees, everybody works – applies for a job at their local Hobby Lobby knows that it's a Christian organization? I don't think so.

MS. CHAMBERS: As far as Hobby Lobby goes, I agree with you that they might not know that. But you talked about the tyranny of telling these people that, you know, they can't have the contraception mandate. Well, here's –

MS. ERBE: That's religious tyranny.

MS. CHAMBERS: But here's the –

MS. ERBE: You're telling somebody who may or may not be a member of your religion that they have to abide by your religious beliefs.

MS. CHAMBERS: But you know what I also think is tyranny, is the government saying to businesses that you have to not only provide contraception with insurance, you have to provide all these other things that people may not need. That is something that the government put on the table. The government –

MS. BEYER: That's completely off the subject and let me just say this. They're talking about contraception. Ninety percent of women in America, at some point, will have used birth control. And by the way, birth control pills –

MS. ERBE: And 98 percent are Catholics, Catholic women and men.

MS. BEYER: Exactly. And just under 50 percent of the use of birth control pills are for other things, not birth control, like endometriosis. It's the go-to drug for taking care of symptoms of endometriosis. So do we really want to go down – I mean, when you say tyranny, I think if 90 percent of the women count on this, there is a tyranny to it.

DEL. NORTON: Well, if they want to just say that they're engaging in the free exercise of religion, and that's what they would say, then essentially they would be saying that a body created by law is exercising religion. The corporation, when it gives a contribution, is giving that in the name of the corporation. And therefore, you can see, if you want to, the speech notion, it's very hard to see how you could argue that this body created because they asked to be created as a corporation. They didn't have to. They asked to be created as a corporation. Could make out the case that this legal entity created by the state has the right to worship.

MS. CHAVEZ: Again, the simplest way is to get businesses out of the business of delivering insurance.

MS. ERBE: All right. Let us know what you think. Please follow me on Twitter @BonnieErbe and @TotheContrary. From contraception to custody.

Are courts pitting pregnant women against their fetuses? One celebrity custody battle shows things may be heading that way. The case involves Olympic gold medal skier Bode Miller, his ex lover, and their nine-month-old son.

Sara McKenna is a former Marine and firefighter, who conceived during a brief relationship with Miller. At first, he sent her a text message he did not want her to bring the pregnancy to term. Later, she moved from California, where they met, to New York,

to attend Columbia University on the GI Bill. Then, Miller filed a declaration of paternity. He won primary custody after a New York court said McKenna's, quote, "appropriation of the child while in utero was irresponsible and reprehensible." End quote.

A New York appeals court disagreed, rejecting the suggestion that, quote, "the mother needed to somehow arrange her relocation with the father with whom she had only a brief romantic relationship." End quote.

A court granted temporary custody to the mother, but the cross-country legal battle continues.

So should pregnant women, Linda Chavez, be able to be ordered around by the father of their children where they should live?

MS. CHAVEZ: Well, I have to tell you. This really threw me back about 40 years ago, when I lived in Los Angeles and thought I was a resident there, but my husband happened to move to Washington, D.C. And at the time, because his residency changed, so did mine. And I went from being an in state student to being an out of state student, even though I'd never stepped foot in Washington, D.C. That used to be the way we used to think things, sort of fathers determined or husbands determined everything.

This is totally bizarre. And frankly, I don't understand how it is that the courts could intervene in this case and take away the right of a woman to be able to move because she happens to be pregnant. I mean, she's not even married to the father of the child. And I just think it's totally ridiculous.

MS. ERBE: But isn't it a product of all this litigation by so-called prolife groups who want to give fetuses rights? And now –

MS. CHAVEZ: And it isn't giving the fetus the right –

MS. ERBE: Yes, it –

MS. CHAVEZ: No, it's giving the father the right –

DEL. NORTON: It is.

MS. ERBE: But it's also creating the fetus as an individual and pitting that individual against the woman who is creating this child.

MS. CHAVEZ: No, I think it's pitting – I think this is more sort of into the father, you know, giving fathers rights. And frankly, in the old days, the father was presumed to be the husband. Because so many children are born out of wedlock now, we've sort of totally disassociated marriage from all of this. But this is a bizarre ruling. I think it will ultimately be thrown out.

DEL. NORTON: This is a spite fight really. This is not a – this is not – I mean, you can see –

MS. ERBE: Yeah, but it has much larger implications for pregnant women rights.

DEL. NORTON: You're right. But I think Linda is right. He is – the line that he is threading is the fathers who now are increasingly claiming their own rights. And by the way, I'm pleased to see that. I don't think he cares beans about this kid. I – and asserting his rights. And I think that the appeals court saw that in asserting his rights what he's really after was after the mother. This is a fight between a mother and a presumptive father. And the fetus is incidental to it all. I'm not even sure that it would be interesting to know if they file and they may have – they file –

MS. ERBE: But where did this whole – where did this whole legal –

DEL. NORTON: Even the right to life people would have wanted to file an amicus in this case.

MS. ERBE: Yeah, but aren't they responsible for creating this whole doctrine of law around so-called unborn children that has led to this case?

MS. BEYER: Well, I think that's part of it. And, you know, when you read what this woman said in the family court that this Marine, this woman who is on the GI Bill, she's trying to get herself a fabulous Ivy League education, calling her irresponsible and reprehensible behavior, you know, it was just – flies in the face of common sense among other things and is very much irresponsible, you know, in itself. So I was glad to see that it was overturned, but there is clearly a sense on the part of that judge in the family court that fathers, you know, should somehow be able to control the mother of their children even before the baby is born.

MS. CHAMBERS: Well, I think you have to look at these on a case-by-case basis because in this specific case, you said you don't think that the father cares about the child. You have to look at the fact that he did not want to be in this child's life at all, at all, before this child was born. And so that is part of the reason why I think it's hard to take broad implications out of this very specific. The reason why the mother wanted to have the child and why the court decided they did was partially based on the testimony that he didn't want to be involved until now.

MS. BEYER: And imagine if this were the case that pregnant women would be tethered to the fathers of their babies –

MS. ERBE: Well, that's what it's all about.

MS. CHAVEZ: And frankly, you know, I agree with you. I think it's wonderful when fathers want to be involved, but marriage is the vehicle to do that. And frankly,

establishing that you have a right if you and the mother are not married, to me, I think you are complicating the matter. And I don't think –

(Cross talk.)

DEL. NORTON: He's really on very slim ground that he is not married to this woman. He'd have a stronger case, not a good case, but a stronger if they were married.

MS. ERBE: But what will the outcome of this case do to pregnant women? Will it – right now, she has temporary custody, anyway. But will, down the road if he gets another sympathetic judge somewhere, won't it make – won't that say to pregnant women, you better be getting along with the father of your child or you may have to move coast to coast to stay – and you may have to limit your opportunities?

DEL. NORTON: Don't forget that judge has been overturned. And that's the law now. The law is that she had the right.

MS. CHAMBERS: I think when all four of us here agree, this is outrageous surely. That won't happen.

MS. ERBE: All right. Behind the headlines. Jezebel.com, it's an edgy feminist blog that generates more than 32 million hits each month. We spoke with founder, Anna Holmes, about why she took on the challenge.

(Begin video segment.)

MS. ERBE: Author and "New York Times" book reviewer Anna Holmes has never apologized for being a feminist. When her friends and colleagues shied away from feminism, she embraced it. So after two years at "Glamour" Magazine, frustrated over the status quo in women's media, she helped create Jezebel for online media firm Gawker.

ANNA HOLMES: I wasn't seeing a lot of discussion of general politics with feminist issues and the culture in general. But it seemed like there really needed to be a feminist analysis or analyses, especially of pop culture. And so rather than rejecting pop culture altogether, I figured that it might be a way to provide an entry point into representations of women or media criticism or feminism.

MS. ERBE: Feminism is defined as the belief that men and women should have equal rights. A poll earlier this year revealed only one in five Americans identify themselves as feminists, while 82 percent believe men and women should be equal socially, politically, and economically. Holmes strives to diminish the label's negative connotations.

MS. HOLMES: I did feel that if we talked about feminism in a very unapologetic matter of fact way, if we self-identify as feminists in a very unapologetic matter of fact

way and repeated the word enough – (inaudible) – in headlines or in the content of posts that for some readers maybe it would lose some of its icky factor.

MS. ERBE: When Holmes launched the site, she did so to fill what she saw as an open niche. Monthly women’s magazines were struggling to stay relevant and failed to represent the interests and diversity of the contemporary woman. The media stereotypes of women narrow discourse on bigger issues. So in 2008, when Jezebel’s pages filled with deep political discussions of the presidential election, it served as one of Holmes’ proudest moments.

MS. HOLMES: If you’d looked at this site on any given day, throughout the year 2008, and even beyond, but especially then, they would have proved to you, the readers, just how invested they were in talking about politics, and not just electoral politics, but gender politics. And it was such an amazing time just to live through. It was historic.

MS. ERBE: Holmes says the Internet is a guiding light for print magazines.

MS. HOLMES: I think the women’s magazines, they’re trying to keep up with the times, and they’re kind of, you know, taking a page from the ways that a lot of women’s media properties on the Internet have been behaving. But you know, I don’t have a – I don’t have a crystal ball, but they do seem to be trying to and – (audio break) – available a little bit more than they used to.

MS. ERBE: Holmes champions the Internet as a platform that gives voice to young women once marginalized by traditional media outlets. And as a blogger, she’s also an avid user of social media, but she sees the downside of social media too.

MS. HOLMES: Again, I’m very glad that Facebook wasn’t around when I was 13. That it wasn’t a place where I was going to, you know, try and show off or that would be a repository of all the mistakes I’ve made as a teenager. And I think it just adds a level of performance to a time in one’s life. It’s already totally difficult.

MS. ERBE: Holmes is promoting her new book, “The Book of Jezebel.” She left Jezebel in 2010 and has no plans to return, but might start another website.

MS. HOLMES: Well, I know it’s not going to be anything like Jezebel only because I would feel like I was repeating myself. And I don’t want to do that.

(End video segment.)

MS. ERBE: So what – how much of an impact has Jezebel had on young women?

MS. BEYER: There is a whole generation of these millennials who’ve sort of embraced this idea of feminist that seems very laden with pop culture and it’s smart and it’s sassy and it’s got a lot of moxie. I really like it because I think our generation of

feminism, you know, we focused on economic and political equality. What they're looking at is something else. It's sort of in the DNA of our culture. It's, you know, double standards. It's images that don't reinforce the proper kind of message for girls and women. And they're going at it head on.

My daughter is actually part of this. She started something called Feminist Taylor Swift. And she takes a line from a Taylor Swift song like she wears T-shirts, I – she wears short skirts, I wear T-shirts, neither one of us is asking for it. And in a week shed 100,000 followers. I think this is a really good sign. It's showing that I think they're going to rebrand feminism and basically say, look, this is about all of us being equal.

MS. CHAVEZ: Well, I don't know. I didn't think there was anything all that new about Jezebel. I mean, it's still very liberal, very sort of left oriented politically. There are plenty of people out there – I don't call myself a feminist, but everybody laughs at me when I say that because I'm, you know, professional woman, worked all my life, you know, most I ever took off when my kids were born was three weeks, back in the workplace, three weeks after birth. And yet, feminists seem, you know, to not have anything to attract someone like me, who also holds very conservative views. And I think there's something wrong with that. As long as feminists – feminism is saying no to people who politically disagree and who may be politically conservative, then it's not going to be a very welcoming place.

DEL. NORTON: I'm amazed that conservatives haven't started their own brand of feminism because you're absolutely right. There are feminists in the House of Representatives who are Republicans, although – and this is what's important about Jezebel – she is like traditional feminism in the sense that she's very serious about equality. You know, she talks about political issues. And she's made feminism trendy again. Actually, feminism was quite trendy when it started up in the '60s. And then, it – and then women –

MS. ERBE: And then Rush Limbaugh came along and –

DEL. NORTON: Well, no, I think women themselves are responsible for having reverted to I really want a boyfriend. Maybe being seen as a feminist isn't quite with it. But here, they're saying, you can be a liberated feminist and be into all the other things like boys, men as well. I think it's great for feminism.

MS. CHAMBERS: I'm sorry, but as a young woman who runs a publication that's about politics and uses pop culture, I'm very offended by Jezebel. I think they're giving feminism a bad name. Last week, there was an abortion fundraiser called Texas Women Forever, an abortion fundraiser at which Sarah Silverman wiped a napkin in between her under area and they auctioned it off. My publication wrote about how unclassy that is. Even if you are pro-abortion, it's incredibly unclassy. Jezebel trashes us for writing about how unclassy that was.

So when you do sorts of things like that, that makes me feel that you are giving feminism a bad name and you're giving your brand a bad name. And I think that someone could start a better publication that pushes for women's rights without doing it in an unclassy way.

MS. CHAVEZ: Unclassy, it was unhygienic and gross. I'm sorry. (Laughter.)

MS. CHAMBERS: That was my TV version –

MS. BEYER: I am not going to defend that at all. But what I will say is we still only have 16 percent of women on boards. We still only have, what, 4 percent CEOs in the Fortune 500. There is something in our culture that we have yet to address and I think that's a piece –

MS. ERBE: And we still haven't had a woman president. That's the one that bugs me the most.

MS. CHAMBERS: Yeah, but maybe soon.

DEL. NORTON: And you're not going to get one unless feminism becomes more the style of women. Not just how they think, not just what they want. It's something in the style and in the culture and it's something that crosses generations, as these millennials have shown us.

MS. CHAMBERS: Oh, absolutely. I would love to see a publication out there that deals with these issues in a non-political way –

MS. ERBE: That's a – I mean, there's the Independent Women's Forum, whose members we use quite frequently on this show, I mean, that's a –

MS. CHAVEZ: What I would like to see is more feminists with senses of humor. Now, sometimes we get that, but I – you know – I think the whole idea of having a sense of humor being a little bit light and also learning not to treat each other because we disagree with each other as enemies.

MS. ERBE: All right.

MS. BEYER: Well, try my daughter's Twitter account.

MS. CHAMBERS: I love your daughter's Twitter account. (Laughter.)

MS. ERBE: That's it for this edition of *To the Contrary*. Please follow me on Twitter @BonnieErbe and @TotheContrary. And visit our website [pbs.org/tothecontrary](http://pbs.org/tothecontrary), where the discussion continues. And whether you agree or think to the contrary, please join us next time.

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