

# EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

AMERICAN FREEDOM DEFENSE  
INITIATIVE; PAMELA GELLER; and  
ROBERT SPENCER,

Plaintiffs,

v.

METROPOLITAN TRANSPORTATION  
AUTHORITY (“MTA”); and JAY H.  
WALDER, in his official capacity as  
Chairman and Chief Executive Officer of  
MTA,

Defendants.

Case No. 11-civ-6774-PAE-THK

ECF CASE

Hon. Paul A Engelmayer

Magistrate Judge Katz

**DECLARATION OF PLAINTIFF PAMELA GELLER**

I, Pamela Geller, make this declaration pursuant to 28 U.S.C. § 1746 based on my personal knowledge and upon information and belief where noted:

1. I am an adult citizen of the United States and a resident of the State of New York.
2. Robert Spencer and I co-founded American Freedom Defense Initiative (“AFDI”), which is incorporated under the laws of the State of New Hampshire. I am the Executive Director of AFDI, and Mr. Spencer is the Associate Director. Mr. Spencer and I engage in political and religious speech through AFDI’s activities, including AFDI’s religious freedom bus and billboard campaigns.
3. Upon information and belief, the Metropolitan Transportation Authority (“MTA”) permits a wide variety of commercial, noncommercial, public-service, public-issue, political, and religious advertisements on MTA property, including its vehicles.
4. For example, pursuant to its policies and practices, MTA permitted a religious group, Muslims for Peace, to run an advertisement on 90 public buses. The advertisement stated,

“Muslims for Peace, Love for All, Hatred for None, 1-800-WHY-ISLAM.” A true and accurate copy of this advertisement is attached as Exhibit A.

5. Pursuant to its policies and practices, MTA permitted the display of “Jesus for Jews” posters on the interior advertising space of MTA subways and on MTA’s advertising space in Times Square Station in Manhattan. True and accurate copies of this advertisement is attached as Exhibit B.

6. Pursuant to its policies and practices, MTA permitted an atheist group, the Big Apple Coalition of Reason, to display an advertisement stating, “A million New Yorkers are good without God. Are you?” A true and accurate copy of this advertisement is attached as Exhibit C.

7. In fact, pursuant to its policies and practices, MTA permitted Mr. Spencer and me to display a religious freedom advertisement on its vehicles that stated the following: “Fatwa on your head? Is your family or community threatening you? Leaving Islam? Got questions? Get answers!” The advertisement also included the following website address: [RefugeFromIslam.com](http://RefugeFromIslam.com). A true and accurate copy of this advertisement is attached as Exhibit D. This advertisement was displayed on MTA buses from approximately May 17, 2010, to approximately June 13, 2010.

8. Additional advertisements accepted by MTA are attached to this declaration as Exhibit E. These advertisements demean and mock people who oppose abortion, who are Republican, who support the TEA party, and who are Christian.

9. Recently, MTA permitted the display of “End U.S. military aid to Israel” posters at MTA subway stations (hereinafter referred to as the “Anti-Israel Advertisement”). A true and accurate copy of this advertisement is attached as Exhibit F.

10. On or about September 12, 2011, I submitted a proposal on behalf of AFDI to CBS Outdoor, which acts as the advertising agent for MTA, to place a new advertisement on MTA buses in New York City (hereinafter referred to as the “Pro-Israel Advertisement”). A true and accurate copy of this advertisement is attached as Exhibit G.

11. AFDI’s Pro-Israel Advertisement is political speech in direct response to the Anti-Israel Advertisement. The Anti-Israeli Advertisement suggests that Israel’s military is the impediment to peace between the Israelis and Palestinians and that U.S. military aid to Israel also acts as an impediment to peace between the Israelis and Palestinians. In other words, the Anti-Israel Advertisement blames Israel, its military, and U.S. military aid to Israel as the cause of Palestinian terror directed against innocent civilians in Israel and abroad.

12. AFDI’s Pro-Israel Advertisement presents the message that there is no comparison or equivalence between savage civilian-targeting violence and Israel’s civilized struggle for survival in a part of the world where civilized behavior is overshadowed by terrorism, despotism, and brutality.

13. On September 21, 2011, CBS Outdoor, acting on behalf of MTA, informed me by email that MTA had rejected the advertisement copy on the grounds that it violated § 5.05(B)(11) of the MTA’s Advertising Standards (“MTA’s Initial Rejection”). The MTA’s Initial Rejection concluded with an invitation to AFDI to modify our speech in some way so as to be acceptable to MTA. A true and accurate copy of MTA’s Initial Rejection is attached as Exhibit H.

14. Section 5.05 of the MTA’s Advertising Standards reads, in relevant part, as follows:

5.05 – Advertising Standards

A. The License Administrator [MTA] reserves the right to establish standards for the display of advertising on its properties and may amend such standards from time to time; provided, however, if such amendments are determined by the License Administrator to have a material impact on Gross Receipts and such amendments are not required by law, the License Administrator will negotiate in good faith a modification in the Minimum Annual Guarantee and Section 15.15 will apply. The current standards are set forth in Section 5.05(b). The Contractor [CBS Outdoor] shall review each advertisement prior to any installation work and agrees that whenever a question arises as to the propriety of an advertisement, in that it may be considered objectionable or controversial, the Contractor shall notify the License Administrator.

B. The Contractor shall neither accept for display, install, display nor maintain any advertisement that falls within one or more of the following categories:

\* \* \*

11. The advertisement contains images or information that demean an individual or group of individuals on account of race, color, religion, national origin, ancestry, gender, age, disability or sexual orientation.

A copy of this standard is attached to this declaration as Exhibit I.

15. By email on September 22, 2011, AFDI, through legal counsel, rejected MTA's invitation to modify our speech and requested a "formal and final determination" ("Response to MTA's Initial Rejection"). AFDI's Response to the MTA's Initial Rejection made clear that the Pro-Israel Advertisement copy did not violate MTA's Advertising Standards (hereinafter

“Demeaning Speech Standard”) and that MTA’s use of the Demeaning Speech Standard to prohibit our speech was an unconstitutional restriction. A true and accurate copy of AFDI’s Response to MTA’s Initial Rejection is attached as Exhibit J.

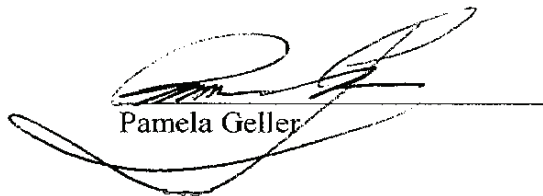
16. By email on September 23, 2011, CBS Outdoor, acting on behalf of MTA, informed me that MTA had formally and finally rejected AFDI’s Pro-Israel Advertisement on the grounds that it violated § 5.05(B)(11) of MTA’s Advertising Standards. (“MTA’s Final Rejection”). A true and accurate copy of MTA’s Final Rejection is attached to this declaration as Exhibit K.

17. AFDI objects to MTA’s censorship, which is effectively editing and thus suppressing the viewpoint AFDI is attempting to express in its message. That viewpoint is that U.S. foreign policy supporting Israel in the face of savage violence is the correct moral, political, and strategic choice for the leader of the Free World.

18. As a direct and proximate result of MTA’s censorship, our (Plaintiffs’) constitutionally protected right to freedom of speech has been abridged by the State, and we are suffering an ongoing and irreparable harm every moment this censorship continues.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 30<sup>th</sup> day of January 2012.

  
Pamela Geller