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New York Federal Court to Hold Hearing on Request to Halt MTA's Restriction on Anti-Jihad Advertisement

New York, New York (April 2, 2012) – Tomorrow at 10 a.m. EST, in the U.S. District Court for the Southern District of New York, Federal Judge Paul A. Engelmayer will hear live testimony and oral argument on a request for a preliminary injunction filed by the American Freedom Law Center (AFLC). AFLC attorneys are asking the court to halt the New York Metropolitan Transportation Authority's (MTA) restriction on an anti-jihad bus advertisement, claiming that the restriction violates their clients' First Amendment right to freedom of speech. This motion is part of a lawsuit filed by AFLC on behalf of the American Freedom Defense Initiative (AFDI), Pamela Geller, and Robert Spencer.

At issue is AFDI's pro-Israel/anti-jihad advertisement, which states, "In Any War Between the Civilized Man and the Savage, Support the Civilized Man. Support Israel. Defeat Jihad." This advertisement was offered as a direct response to an anti-Israel advertisement that was displayed on MTA property by a pro-Palestine group. The MTA approved the anti-Israel advertisement, which portrayed the Palestinians as being on the side of "peace and justice." However, the MTA rejected AFDI's advertisement, claiming that it violated its policy against displaying "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."

As argued in the lawsuit, the MTA is mandated as a governmental agency to comply with federal and state laws, including the First and Fourteenth Amendments to the United States Constitution, which prohibit the government from making content- and viewpoint-based restrictions on speech.

Robert Muise, Co-Founder and Senior Counsel of AFLC, commented: "As a governmental agency that is subject to the requirements of the Constitution, the MTA cannot

allow speech on the controversial subject of the Palestinian/Israeli conflict and then pick and choose which messages are acceptable and which are not based on the content or viewpoint of the message. By doing so, the MTA is violating a fundamental principle of the First Amendment.”

Among the issues to be argued at tomorrow’s hearing include the meaning of jihad in the context of the Palestinian/Israeli conflict and whether the MTA follows any objective standards for determining what is – and what is not – “demeaning.”

AFLC attorneys will be calling as a witness for purposes of cross-examination MTA’s Director of Real Estate Jeffrey Rosen, the official responsible for making the final determination that AFDI’s advertisement was “demeaning” and thus not permitted pursuant to the MTA’s policy. AFLC Senior Counsel David Yerushalmi anticipates questioning Rosen on the process the MTA uses to determine whether an advertisement is demeaning and how that process was applied to AFDI’s anti-jihad advertisement as well as other advertisements that the MTA permitted. Following the witness testimony, it is expected that the court will hold an extensive oral argument on the constitutional issues presented by this important First Amendment case.

Additional Details: The hearing is scheduled to commence at 10:00 am on Tuesday, April 3, 2012, and should conclude by 2:00 pm. It will be held in Courtroom 18C at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, NY 10007-1312. The public is welcome to attend.

Immediately following the hearing, AFLC Co-Founders and Senior Counsel David Yerushalmi and Robert Muisse will be available for comment. You may reach Attorney Yerushalmi directly at (646) 262-0500 and Attorney Muisse at (734) 635-3756.

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