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Arizona • California • Michigan • New York • Washington, D.C. • (855) 835-AFLC (2352) • Fax: (801) 760-3901

Contact: Robert J. Muise
(855) 835-AFLC (2352)
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American Freedom Law Center Asks New York Federal Court to Halt MTA’s Censorship of Anti-Jihad Advertisement

New York — Today, the *American Freedom Law Center* (AFLC), on behalf of the American Freedom Defense Initiative (AFDI), Pamela Geller, and Robert Spencer, filed a request for a preliminary injunction in the U.S. District Court for the Southern District of New York against the New York Metropolitan Transit Authority (MTA), seeking to halt MTA’s censorship of AFDI’s pro-Israel / anti-Jihad bus advertisement.

AFLC Senior Counsel Robert Muise commented, “Here, the MTA would rather violate a law-abiding, private citizen’s right to freedom of speech than offend those who support violent jihad against Israel and others. The American Freedom Law Center is committed to fighting this pernicious form of civilization jihad that undermines our fundamental rights.”

At issue in the lawsuit 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 run previously by a pro-Palestine group. The MTA approved the anti-Israel advertisement. However, it 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.”

AFLC Senior Counsel David Yerushalmi commented, “The MTA’s ‘demeaning speech’ policy is operating here as a viewpoint-based restriction on our clients’ speech. Viewpoint discrimination is the most egregious form of content discrimination under the First Amendment.”

According to the papers filed this morning in federal court, the MTA, by policy and practice, has intentionally dedicated its advertising space on its vehicles, including its public buses, to expressive conduct. Pursuant to this longstanding policy, MTA has permitted a wide

variety of commercial, noncommercial, public-service, public-issue, political, and religious advertisements on the outside of its vehicles. For example, 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 . . . WHY ISLAM.*” The 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?*” Recently, and as noted previously, the MTA permitted the display of a pro-Palestine / anti-Israel advertisement which stated, “*Be on our side. We are the side of peace and justice. End U.S. military aid to Israel.*” This advertisement was displayed at MTA subway stations throughout the City.

This past September, AFDI submitted its proposed advertisement to CBS Outdoor, which acts as the advertising agent for MTA. AFDI’s pro-Israel advertisement is political speech that directly responds to the pro-Palestine / 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.

AFDI’s 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.

On September 21, 2011, CBS Outdoor, acting on behalf of MTA, informed AFDI by email that MTA had rejected the advertisement on the grounds that it violated its demeaning speech policy. The MTA’s rejection concluded with an invitation to AFDI to modify its message in some way so as to be acceptable to MTA.

By email on September 22, 2011, AFDI, through legal counsel, rejected MTA’s invitation to censor its speech and requested a “formal and final determination.” AFDI’s response made clear that the pro-Israel advertisement did not violate MTA’s demeaning speech policy and that MTA’s use of the policy to prohibit AFDI’s message violated the First Amendment.

On September 23, 2011, CBS Outdoor, acting on behalf of MTA, informed AFDI that MTA had formally and finally rejected AFDI’s advertisement on the grounds that it violated MTA’s demeaning speech policy. AFDI promptly filed this civil rights lawsuit.

Through the lawsuit and the recently filed preliminary injunction motion, AFDI is challenging the constitutionality of MTA's censorship, which is 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.

Muise concluded, "The Constitution does not permit the government, in this case the MTA, to take sides on political issues by silencing one-side of the debate. Here, the MTA is siding with the savage and silencing the civilized man, in violation of the First Amendment."

The *American Freedom Law Center* is a Judeo-Christian law firm that fights for faith and freedom. It accomplishes its mission through litigation, public policy initiatives, and related activities. It does not charge for its services. The Law Center is supported by contributions from individuals, corporations, and foundations, and is recognized by the IRS as a section 501(c)(3) organization. Visit us at www.americanfreedomlawcenter.org.

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