



# PRESS RELEASE

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## **AFLC Files Motion Asking Michigan Federal Court to Rule that Ban on “Leaving Islam” Bus Ad Violates the U.S. Constitution**

Detroit, Michigan (Aug. 16, 2013) — Yesterday, the American Freedom Law Center (AFLC), a national, nonprofit Judeo-Christian law firm, filed a motion for summary judgment in the United States District Court for the Eastern District of Michigan, asking the court to rule that the refusal of a Detroit-area transportation authority to run a “Leaving Islam” advertisement on its buses violated the U.S. Constitution.

AFLC’s motion asks the court to enter judgment in favor of the sponsors of the bus advertisement and against the Suburban Mobility Authority for Regional Transportation (SMART), which refused to run the advertisement, claiming that it was “political” and “scornful” toward Muslims in violation of its advertising guidelines.

The advertisement at issue stated, *“Fatwa on your head? Is your family or community threatening you? Leaving Islam? Got questions? Get Answers!”* (See image below.)



AFLC’s motion is part of a federal civil rights lawsuit filed by AFLC Co-Founders and Senior Counsel Robert Muise and David Yerushalmi on behalf of the advertisement’s sponsors, the American Freedom Defense Initiative (AFDI), and its executive directors, Pamela Geller and Robert Spencer.

During depositions taken in the case, SMART officials testified that “political” for purposes of its advertising guidelines means “any advocacy of a position of any politicized

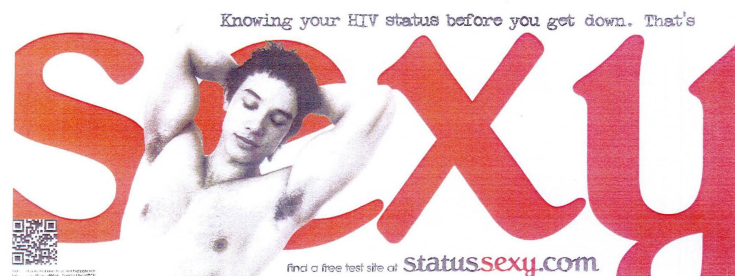
issue.” In an effort to explain this tautology (that “political” = politicized issue), the officials further testified that “politicized” means “if society is fractured on an issue and factions of society have taken up positions on it that are not in agreement, it’s politicized.”

Muise commented: “As the U.S. Supreme court has warned, the danger of censorship and of abridgment of our precious First Amendment freedoms is great where officials have unbridled discretion to determine which messages are acceptable and which are not. Indeed, a speech restriction violates the First Amendment when it grants a public official such broad discretion that the official’s decision to limit speech is not constrained by objective criteria, but rests on ambiguous and subjective reasons, as in this case.”

Despite SMART’s claim that it uniformly rejects contentious “political” advertisements, the evidence uncovered during the course of the litigation revealed the opposite to be true. Indeed, SMART accepted an advertisement sponsored by the Detroit Area Coalition of Reason, an atheist organization which, by its own admission, engages in “separation of state and church activism”—a highly politicized issue. That advertisement stated, “*Don’t Believe in God? You are not alone.*” (See image below). In fact, the atheist advertisement was so controversial that bus drivers for SMART refused to drive the buses displaying it.



SMART also accepted advertisements that advocate for sexual relations between men. One of the several advertisements of the “Status Sexy” campaign accepted by SMART included a picture of a shirtless male in a sexually provocative position with the caption, “*Knowing your HIV status before you get down. That’s SEXY.*” (See image below)



According to an article linked on the [statussexy.com](http://statussexy.com) website, “The ‘Status Sexy’ campaign uses images of attractive, shirtless men to convey its message encouraging men who have sex with men to be tested for HIV.”

In light of the record evidence, AFLC argued in its brief filed with the court that while [SMART officials] contend that they have a constitutionally valid “political” speech restriction, the undisputed facts demonstrate beyond cavil that there is no such coherent “guideline.” Rather, this restriction is in effect and as applied an arbitrary, capricious, and subjective *ad hoc* decision . . . . [SMART’s] speech restriction, as they define it, is based on whether the subject matter of the advertisement is contentious. But, as demonstrated in the record, even that restriction is not applied coherently because it is not just contentiousness; it is any viewpoint-based contentiousness that [SMART officials] do not like.

As a result, AFLC argued that SMART’s advertising guidelines, facially and as applied to reject the “Leaving Islam” advertisement, violate the Free Speech Clause of the First Amendment and the Equal Protection Clause of the Fourteenth Amendment.

David Yerushalmi, AFLC Co-Founder and Senior Counsel, concluded: “SMART apparently has no problem disparaging people of faith, such as Christians or Jews, or displaying lewd advertisements to a captive audience that includes young children. Yet, these same government officials have the chutzpah to censor our client’s public service message because it is allegedly ‘political’ and ‘scornful’ toward Muslims. Such discrimination is a blatant violation of our clients’ core freedoms protected by the Constitution.”

SMART will have 21 days to respond to AFLC’s motion.

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](http://www.americanfreedomlawcenter.org).

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