

October 13, 2017

Statement of Zachor Legal Institute Regarding ACLU Lawsuit Challenging Kansas Anti-Discrimination Law.

Earlier this year, the State of Kansas enacted HB 2409, a law that protects taxpayers of Kansas from being compelled to financially support those who engage in discriminatory boycotts. HB 2409, a common sense and narrowly tailored law similar in purpose to many other federal and state anti-discrimination laws, allows the State of Kansas to refuse to enter into contracts with parties who have made the choice to participate in the so-called “BDS movement” and its boycotts directed at America’s ally, Israel, Americans of Israeli descent and Jewish Americans.

HB 2409 does not prohibit participation in any form of speech or conduct. Kansans remain free to voice their political opinions without interference from the state. The only time HB 2409 affects any party is if they first choose to participate in a boycott that is deemed to be discriminatory and then seek to do business with the state. In that situation, the state may, but is not compelled to, choose to refuse to do business with that party if the party fails to certify that it is not engaged in a discriminatory boycott. Choosing who it does business with when acting as a participant in the market is, as courts have consistently found, a right of each state.

Many states require anti-discrimination certifications and some even refuse to do business with other states that have laws and policies that the state considers discriminatory. Like those other laws, HB 2409 is a law that allows the State of Kansas to spend in a way that comports with the interests of the citizens of Kansas.

The ACLU, however, has filed a meritless suit to thwart the will of the people of Kansas, who acted through their elected officials, and halt the enforcement of this important anti-discrimination law. The ACLU starts with the erroneous claim that the law infringes First Amendment rights and then, ignoring the rampant discrimination upon which the BDS movement was founded and operates, portrays it as a benevolent political rights movement. In fact, the BDS movement is a toxic reincarnation of historic anti-Semitic hate groups, hiding, in this particular case, behind an unwitting religious organization.

Zachor Legal Institute intends to debunk the ACLU’s misreading of First Amendment caselaw. We will also lay bare the true nature and objectives of the BDS movement to show that its activities are neither in support of civil rights nor protected by the First Amendment.

Zachor Legal Institute has assisted in the legislative enactment and enforcement of anti-boycott laws in a number of states.