

Olympia Food Co-Op Wins Anti-SLAPP Motion, Court Dismisses StandWithUs Lawsuit

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By Richard Silverstein (/author/itemlist/user/45005), RichardSilverstein.com

(http://www.richardsilverstein.com/tikun_olam/2012/02/27/olympia-food-coop-wins-anti-slapp-motion-court-dismisses-standwithus-lawsuit/) | Report

Today, a Washington state court dismissed a lawsuit (<http://ccrjustice.org/newsroom/press-releases/judge-dismisses-lawsuit-filed-over-boycott-of-israeli-goods>) brought against the Olympia Food Coop by StandWithUs and the Israeli Ministry of Foreign Affairs:

[The] court dismissed the case, calling it a SLAPP – Strategic Litigation Against Public Participation – and said that it would award the defendants attorneys’ fees, costs, and sanctions. The judge also upheld the constitutionality of Washington’s anti-SLAPP law, which the plaintiffs had challenged.

In a court hearing last Thursday, lawyers from the Center for Constitutional Rights (CCR) and Davis Wright Tremaine LLP argued that the court should grant the defendants’ Special Motion to Strike and dismiss the case because it targeted the constitutional rights of free speech and petition in connection with an issue of public concern.

“We are pleased the Court found this case to be what it is – an attempt to chill free speech on a matter of public concern. This sends a message to those trying to silence support of Palestinian human rights to think twice before they bring a lawsuit,” said Maria LaHood, a senior staff attorney with the Center for Constitutional Rights.

...We’re thrilled that the court saw fit to protect the board’s right to free speech. This decision affirms the right to engage in peaceful boycotts without fear of being dragged through expensive litigation,” said Bruce E.H. Johnson of Davis Wright Tremaine LLP, who drafted Washington State’s Anti-SLAPP law.

...“Today’s victory is not only for the Co-op, but one for free speech,” said Jayne Kaszynski, spokesperson for the Olympia Food Co-op, and one of the defendants in the case.”

In this case, the issue was whether the food coop had the right to ban nine Israeli products from its shelves in support of the global BDS movement. This action was taken according to coop rules which permitted the board by

consensus to approve this measure. The plaintiffs could've requested a vote of the entire membership to confirm or reject the board's decision, but refused to go this route. They ran for the coop board in the next election on a platform that opposed the board's BDS decision and lost.

Though five coop members sued the coop itself in this case, the plaintiffs were recruited by the right-wing pro-Israel advocacy group, StandWithUs and Israel's Northwest Consul General, Akiva Tor. SWU and the MFA also recruited the lawyers representing the anti-BDS group. Israel's deputy foreign minister, Danny Ayalon, told an Israeli TV news show that the government was using such suits in order to pre-empt what he called efforts to delegitimize Israel internationally. Thus, today's court victory is a small, but important victory in the battle to bring Israel's human rights abuses and illegal Occupation to a broader public audience. It is a defeat for the Israeli government and its NGO allies who seek to sweep such issues under the rug and use lawfare tactics to battle human rights activists.

The plaintiffs refuse to declare who is paying the legal fees and the attorney has refused to say that he is doing the case pro bono. Bob Sulkin, the senior partner responsible for the case, has been publicly associated with SWU fundraising efforts in the past and his wife is on the group's board. It's also not known who will be paying the fine and court costs ordered by the judge.

Plaintiff's attorneys told The Olympian that the matter would be decided in the Court of Appeals or Supreme Court, indicating an appeal is likely. It would also appear that the Israeli government, seeing this type of lawfare as a potent strategy in the fight against what they see as delegitimization, would want to maintain the suit as long as possible and as high up the judicial food chain as possible. Even judicial sanctions and fines like the ones the judge levied today are unlikely to deter.

RICHARD SILVERSTEIN (/AUTHOR/ITEMLIST/USER/45005)

Richard Silverstein writes the Tikun Olam blog dedicated to protecting Israeli democracy and exposing national security abuses.

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