



The Louis D. Brandeis Center, Inc. (LDB) is an independent, non-partisan institution for public interest advocacy, research and education. The Center's mission is to advance the civil and human rights of the Jewish people and to promote justice for all.

### **Another Win for LDB Against ASA's Illegal Boycott of Israel** *Federal Judge Confirms Jurisdiction Allowing Case to Proceed*

**Washington, D.C., July 13, 2018** – By confirming subject matter jurisdiction, a United States federal judge has again allowed the lawsuit brought by professors against the American Studies Association (ASA) for its boycott of Israeli universities and academic institutions to proceed.

In a [memorandum opinion](#), the court confirmed the professors adequately alleged potential damages of more than \$75,000, as required for federal jurisdiction in this case.

Recognizing the force of the professors' allegations that John Stephens, Jasbir Puar, J. Kehaulani Kauanui, and Steven Salaita—among other current and former leaders of the ASA—acted to intentionally harm the academic association by using ASA assets to advance their own political goals, Judge Rudolph Contreras agreed the immunization provision of the D.C. Nonprofit Corporations Act did not apply to the Defendants.

Specifically, the Judge ruled that the conditions required by law for director immunity were not met because the professors alleged numerous facts, from the Defendants' own documents, that the ASA leaders intentionally inflicted harm on the academic association. Thus, the Judge concluded that if the professors succeed on their claim the Defendants would have to pay monetary damages, which due to improper withdrawals from the ASA trust fund, could reach into the hundreds of thousands of dollars.

Referencing the professors' allegations that the ASA leaders "purposefully and intentionally withheld material information from [ASA] members, including the fact that the Individual Defendants expected that if the [Resolution] was adopted, [the ASA] would be widely attacked throughout the academic world and the press, and that this would harm [the ASA's] reputation, its members' relationships with their universities, and [the ASA's] size, strength, and finances," Judge Contreras concluded that ample assertions of intentional infliction of harm had been made. (Memorandum Opinion at p. 13.)

In response to the ASA leaders' argument that they did not intentionally harm the organization, since their conduct to ensure the BDS' resolution passed was "in conformance with their overall philosophy," the Judge responded that this "contention does not help if, as alleged, Defendants' 'philosophy' was at odds with the ASA's organizational health." (Memorandum Opinion at p. 14.)

Judge Contreras also referenced a different case in which board of director members were held individually liable for subverting the organization's voting procedures for their own purpose, noting that the ASA leaders in this case "not only allegedly subverted the ASA's voting procedures, but also allegedly improperly diverted its resources and misled its members in service of a harmful purpose." (Memorandum Opinion at p. 15.)

This ruling follows the professors' success in March 2018, when the Court [granted](#) the Plaintiffs' motion to file [an amended complaint](#) that substantially expanded the lawsuit to include additional claims and defendants.

The [lawsuit](#) was initially filed in 2016 by American Studies professors who are current and former ASA members. After numerous unsuccessful attempts to internally address the corrupt practices they witnessed at the time of the vote, the professors decided to enlist the help of the Louis D. Brandeis Center for Human Rights Under Law, which assembled a team of lawyers and legal scholars to represent them. According to the Plaintiffs, the boycott adopted by ASA in 2013 was a concerted effort by a small number of BDS activists

who used their leadership positions in ASA to make anti-Israel activism the central focus of the Association, subverting the mission of the academic association and manipulating the vote in violation of the law. The lawsuit reveals the Defendants attempted to prevent informed discourse and withheld pertinent materials opposing the resolution.

During initial discovery, emails were unearthed that provided further proof of the corruption that occurred. The emails exposed a covert and premeditated plot by U.S. Campaign for the Academic and Cultural Boycott of Israel (USACBI) leaders to pack ASA leadership with USACBI advocates who would ensure that the ASA would adopt the USACBI boycott, essentially hijacking the ASA and its resources for their own purposes. In addition, the emails detail a deliberate scheme by certain Defendants to hide their boycott positions until after they were elected.

The amended complaint also alleges that the Defendants invaded the ASA's trust fund to pay expenses largely arising from or related to the resolution, and to cover lost revenue resulting from the resolution and the resulting decline of the ASA's reputation and good will. The professors further allege that the ASA rushed through a change in the corporate bylaws to allow for the troubling trust fund withdrawals.

This latest decision by the federal court is a significant step forward for everyone who is concerned about the anti-Semitic BDS movement, its deleterious impact on academic institutions and the unlawful practices of those attempting to undermine the pillars of higher education to advance a personal, political agenda.

The case, *Bronner et al v. Duggan et al* (Case 1:16-cv-00740), is before the United States District Court for the District of Columbia.