

ACLJ Files Brief Urging Supreme Court to Protect Against 'Cancel Culture'

Hardly a day goes by that there isn't another news story about someone suffering harassment or retaliation for their political views. Whether it's a school firing a teacher for posting social media memes against the Democrat presidential candidate or a major newspaper proclaiming support for boycotts against businesses whose owners donated to former President Trump's presidential campaign, the targets are usually conservative.

Even some of our nation's elected leaders promote harassment of those with conservative political views. Cancel culture is a recent fixture of American life and poses the gravest threat to the First Amendment right to privacy in one's political associations.

This week, the American Center for Law and Justice filed an amicus brief in two related cases, *Americans for Prosperity Foundation v. Becerra* and *Thomas More Law Center v. Becerra*, urging the Supreme Court to grant greater protection against the compelled disclosure of political and charitable associations.

As we explained here, these cases arose because California is one of a few radical left states that required all charities to submit lists of their major donors. The information should not be publicly disclosed, but California had no law in place to ensure the information's confidentiality. Instead, the state hired students, contractors and seasonal workers to upload the information to insecure websites. Unsurprisingly, the information was easily hackable by the public and immediately exposed the organizations' donors to the threat of

harassment and retaliation.

Both AFP and TMLC had experienced such harassment, including death threats, against their donors and employees in the past. California's carelessness escalated the threats to a whole new level.

From the founding of our nation, the right to advocate anonymously for one's political beliefs has been an important First Amendment value. The Supreme Court has long held that compelled disclosure of an organization's donors and members violates the First Amendment right to associate for the purpose of advancing political views.

In our brief, we argued that the court should grant heightened protection for those who associate with others to advance political causes and do not want to become the target of harassment from political opponents.

We urged the court to apply the most rigorous form of scrutiny to all compelled disclosure laws in order, stating:

"to protect against the chill threatening First Amendment associational rights from the pervasive threat of retaliation and harassment.

'Precision ... must be the touchstone' when it comes to 'our most precious freedoms.' NAACP v. Button, 371 U.S. 415, 438 (1963). That precision should extend to the level of scrutiny applied to laws threatening those freedoms. A malleable standard of judicial scrutiny only aggravates the chilling effect on those rights."

We also provided recent examples of retaliation and harassment from various segments of society, including major media outlets, corporations of all sizes, social media outlets, educational institutions and governmental officials. We concluded that "toxic polarization and the mushrooming of 'cancel culture' has catapulted the value of political

anonymity to its apex. ... [T]he First Amendment must stand as a bulwark against the exposure of all citizens to such reprisals.”

With your invaluable support, we fought the IRS when it targeted Tea Party groups for discriminatory treatment because of their political views. In filing this amicus brief, we are continuing the fight to protect Americans’ right to freely associate with others without fear that they will be retaliated against for their political associations. {eo}

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