

IN THE UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT  
Case No. 19-1378

ARKANSAS TIMES L.P.                    )  
                                                  )  
                                          *Appellant,*                    )  
                                                  )  
vs.                                            )  
                                                  )  
MARK WALDRIP, ET. AL,                )  
                                                  )  
                                          *Respondents,*                    )

**MOTION FOR LEAVE TO  
FILE *AMICUS CURIAE* BRIEF**

Pursuant to Rule 29, Federal Rules of Appellate Procedure, the National Lawyers Guild and Project South (hereafter “Amici”) hereby move this Court for an order allowing it to file the attached amicus curiae brief in support of Appellant Arkansas Times. In support of this motion, Amici state:

**MOVANTS’ INTERESTS**

1. The National Lawyers Guild is a progressive public interest association of lawyers, law students, paralegals, and others founded in 1937 dedicated to the need for basic and progressive change for the furtherance of human rights. The National Lawyers Guild has been involved in key social justice struggles throughout its history related to the use of political boycotts to ensure the protection of human rights and equality. The National Lawyers Guild is also dedicated to promoting human rights and the advancement of social justice struggles against entrenched inequalities throughout the globe through its International Committee, and one of its particular areas of

concern is Palestine.

2. Project South is a Southern-based leadership development organization dedicated to the end of poverty and genocide and the advancement of the Southern Freedom Movement throughout both the American South and the Global South. Project South works across issue areas and among various marginalized communities to advance grassroots efforts to protect the rights and interests of marginalized peoples. Project South is particularly dedicated to the use of and protection of tactics of political engagement embraced by marginalized communities, such as the use of political boycotts. Project South also has a focus on addressing injustice in the Global South, with one particular focus of these efforts on challenging and alleviating the human rights violations by the Israeli government against the Palestinian people.

### **REASONS FOR AND RELEVANCE OF AMICUS CURIAE BRIEF**

3. To fulfill their roles of advancing the grassroots efforts at promoting human rights and social justice movements generally, Amici regularly file amicus briefs, engage in litigation, or otherwise engage in legal support for the political movements to which they belong. Amici file this amicus brief out of concern that the decision currently being appealed will have a negative impact on political advocacy efforts by Amici and their communities and unlawfully undermine legitimate political goals insofar as Amici promote human rights efforts in Palestine.

4. Amici maintain that efforts to interpret the First Amendment and relevant case law narrowly to exclude boycotts of Israel from First Amendment protection undermine constitutional freedoms generally and set a dangerous precedent for censorship of legitimate political dissent.

5. Amici submit that their amicus curiae brief will aid the court in offering analysis of the controlling case law. Specifically, the proposed amicus curiae brief addresses two areas of case law that are particularly relevant to debates about freedom of speech and dissent by government contractors, like the issue in this case. The first of these areas is case law pertinent to requiring citizens generally and government employees in particular to affirm particular political views with the aim of ensuring political loyalty. This line of cases and its broad protections of political dissent by citizens generally and government contractors alike is relevant to cases involving boycotts of Israel but has not been properly considered by prior federal courts. Second, the proposed amicus curiae brief explains distinctions between several additional lines of cases that have been applied and misapplied to cases involving boycotts of Israel that have led to erroneous results.

### **CONCLUSION**

For the foregoing reasons, Amici hereby request the Court grant leave to file an amicus curiae brief in support of Plaintiff-Appellant, Arkansas Times.

Dated: April 12, 2019

Respectfully submitted,

/s/ Jordan S. Kushner

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## CERTIFICATE OF COMPLIANCE

Undersigned counsel hereby certifies, pursuant to Fed.R.App.P. 32(7)(g) that the foregoing motion complies with the type-volume limitation set forth by Rule 27(d)(2). According to the word count of the wordprocessing system used to prepare this Motion, this Motion contains 581 words.

Date: April 12, 2019

s/ Jordan S. Kushner

Jordan S. Kushner

## CERTIFICATE OF SERVICE

In accordance with Fed. R. App. P. 25, I hereby certify that I electronically filed this motion with the Clerk of Court for the United States Court of Appeals for the Eighth Circuit by using the CM/ECF system on April 12, 2019. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

Dated: April 10, 2019

/s/ Jordan S. Kushner

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