

ADL Claims Court Ruling Victory in Spying Lawsuit

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After five years of court appeals and motions on secret files, Anti-Defamation League attorneys in San Francisco say the end is in sight for a class-action lawsuit filed against the agency by pro-Palestinian and anti-apartheid activists.

Last week, a ruling by the California 1st District Court of Appeals determined that the ADL could be defined as a journalistic organization. As such, the agency can keep confidential any information gathered in a journalistic manner.

The ruling severely restricts the plaintiffs in gathering evidence for the case and may thwart their efforts to bring the case to trial, ADL attorneys said.

"Not only are we delighted with the ruling...but we are also delighted in the context of this lawsuit which means that [the plaintiffs] are not going to have anything because there isn't anything for them to have," said Stephen Bomse, an ADL lawyer.

Former Congressman Pete McCloskey, attorney for the activists, did not return phone calls. But in news accounts from the San Francisco Examiner and the Chronicle, the Woodside attorney called the ruling a victory because it affirmed his right to future discovery, albeit limited. The ruling, he said, would enable him to take the case to trial.

The activists' lawsuit followed police raids on the San Francisco and Los Angeles ADL offices in 1992, during which confidential files were confiscated. The files revealed the names of individuals in activist groups that the ADL had been monitoring.

The ADL settled a civil suit brought by the city of San Francisco over charges that the organization illegally acquired confidential government information found in the files. Two years ago, the ADL also settled a related class-action suit brought by a dozen human-rights groups.

The activists in the current case asserted in 1993 that the ADL illegally obtained and disseminated private records of 17 individuals. Such information, the activists claimed, was used to blacklist individuals.

The ADL, which publishes various reports, books and special bulletins as part of its hate-monitoring activities, argued that it was merely gathering information about terrorists and other hate groups. It denied having any blacklist.

ADL lead attorneys Bomse and David Goldstein said that in light of last week's ruling, they will file a motion for the judge to dismiss the case for lack of evidence.

"I think now we are going to move very aggressively to have this end in ADL's favor -- and short of trial," Bomse said. "We think we can get the claims thrown out in short order."

Barbara Bergen, the ADL's regional director, said her organization has no intention of settling with the activists because its attorneys are confident they would prevail in court.

Despite the ADL's newfound status as a media organization, its attorneys said the case doesn't break new legal ground. However, the agency is still vulnerable to investigations into its practices by those who find its surveillance of extremist groups equivalent to spying.

Bergen said there's been no evidence in either the San Francisco district attorney's investigation or the current case to suggest that the ADL has gathered information illegally.

"We are very cognizant of the limits of the law and the methods of information gathering," she said. But she conceded that "there may have been instances" in which an investigator for the ADL unknowingly acted outside the law.

After settling its civil suit with the city of San Francisco, the ADL reviewed its fact-finding methods. The organization has not significantly changed its investigative practices, Bergen said.