

The Olympian

Appeals Court upholds Olympia Food Co-op's boycott of Israeli goods

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Staff writer April 7, 2014

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Supporters of the Olympia Food Co-op rally outside the eastside Olympia store on Friday, July 23, 2010. (Tony Overman/Staff Photographer)

TONY OVERMAN — The Olympian [Buy Photo](#)

The state Court of Appeals has affirmed an Olympia judge's ruling that a lawsuit seeking to end the Olympia Food Co-op's boycott of Israeli goods was an illegal "strategic lawsuit against public participation" or SLAPP lawsuit.

The 33-page published opinion also upholds the \$160,000 in damages that now-retired Thurston County Superior Court Judge Thomas McPhee ordered the plaintiffs to pay the defendants in 2012 as part of a mandatory "anti-SLAPP penalty," along with more than \$60,000 in attorney's fees.

The Washington Court of Appeals released its published opinion on the matter on Monday.

The history of the case dates back to 2010, when Olympia Food Co-op board members voted unanimously to boycott Israeli goods. Those in favor of the boycott said it was in protest of the Israeli government's history of civil rights abuses against Palestinians.

As a result of the co-op's boycott, Israeli products were removed from the co-op's two stores, one in northeast Olympia and the other on Olympia's west side. Boycotted products included gluten-free crackers, ice-cream cones and a moisturizing cream.

In response to the boycott, five Olympia Food Co-op members sued 16 defendants - 10 of the defendants were co-op board members at the time the boycott was adopted, and six defendants subsequently became co-op board members after that.

The lawsuit, filed by Seattle attorney Robert Sulkin, alleged that the co-op's board enacted the boycott of Israeli goods in violation of its own policies because it did not first reach consensus among its members.

Sulkin could not be reached for comment Monday.

The defendants' attorney, Bruce Johnson of the Seattle law firm of Davis Wright Tremaine, argued that Sulkin's lawsuit was a "SLAPP," a nuisance lawsuit intended only to stifle free speech by creating onerous legal costs for those who choose to exercise their First Amendment rights.

"We're very pleased," Johnson wrote in an e-mail to The Olympian on Monday. "It's a solid affirmation of the free speech rights of the Olympia Food Co-op."

SLAPP lawsuits are illegal in Washington under a state law that Johnson and another lawyer at Davis Wright Tremaine helped draft.

Although the appeals court's opinion does find several "harmless" errors by McPhee in his ruling in favor of the defendants, it also stated that "the Co-op's governing documents provided the board with the authority to adopt the boycott."

The appeals court also denied the plaintiffs' claim that the SLAPP statute is unconstitutional.

Defendant Rob Richards, a former co-op board member, said he hopes the litigation is finally over with the appeals court's ruling Monday.

"This has been a very long process and I'm eager for it to be resolved so we can all go on with our lives," Richards said.

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