



Written by [Bob Adelman](#) on September 10, 2019

NRA Sues San Francisco for Violating Its First Amendment Rights to Free Speech

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The National Rifle Association (NRA) [fired back](#) on Monday against the San Francisco Board of Supervisors by filing a lawsuit claiming that the board's resolution declaring the NRA a "domestic terrorist organization" violated its First Amendment rights to free speech.

A simple declaration by the board would likely have not generated the pushback from the NRA, which supports the Constitution and its Bill of Rights, including the right to free speech. But the board overreached, according to the NRA, when it resolved to "take every reasonable step to limit those entities who do business with the City and County of San Francisco from doing business with" the NRA.

The NRA's lead attorney, William Brewer, declared that the board's "action is an assault on all advocacy organizations across the country. There can be no place in our society for this manner of behavior by government officials. Fortunately, the NRA, like all U.S. citizens, is protected by the First Amendment."

In its opening statement the lawsuit refers to a landmark Supreme Court case ruling from 1943 that has already settled the matter: *West Virginia State Board of Education v. Barnette*. The court concluded:

If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion, or force citizens to confess by word or act their faith therein.

The lawsuit states that the non-binding resolution "is a frivolous insult — but San Francisco's actions [in seeking to limit entities from doing business with the NRA] pose a nonfrivolous constitutional threat." The lawsuit went further:

The Resolution intentionally violates the First Amendment speech and association rights of the NRA and its members. Defendants' conduct would chill a person of ordinary firmness from continuing to speak against gun control, or from associating expressively or commercially with the NRA; these ongoing constitutional violations constitute irreparable injuries.

There's another Supreme Court ruling that also blocks San Francisco from limiting its entities from doing business with the NRA: *Board of County Commissioners, Wabaunsee County, Kansas v. Umbehr*, decided in 1996. Keen Umbehr owned a trash hauling business and a sharp tongue. After suffering much criticism from him, the commissioners voted to terminate his contract with the county. As the Supreme Court ruled in that case:

The First Amendment protects independent contractors from the termination or prevention of



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automatic renewal of at-will government contracts in retaliation for their exercise of the freedom of speech....

We recognize the right of independent government contractors not to be terminated for exercising their First Amendment rights.

As Jacob Sullum, writing for *Reason*, pointed out, the board's resolution, if upheld, would have a chilling effect on the freedom of speech not only of the NRA but of any person in any way supportive of the organization who has even the most tenuous of ties to the city of San Francisco. He wrote:

Imagine a printer who does work for the NRA at a discounted rate because he agrees with the organization's goals. If the city stopped hiring the printer because of his "financial and contractual relationships" [language included in the resolution] with the NRA, it would likewise be discriminating against him based on his political views.

The safest bet for the Northern District Court, San Francisco division, would be to uphold the NRA and rule against the city's board of supervisors as an appeal of an opposite ruling would surely be filed with the Supreme Court. As that court has at least two precedents in similar cases on which to rely, the board's resolution would more than likely be tossed in favor of the First Amendment.

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