



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com  
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

# Legal Union Fights Title VII Claims After Palestine Resolution

By **Emily Brill**

Law360 (October 29, 2024, 8:30 PM EDT) -- The Association of Legal Aid Attorneys did not violate anti-discrimination laws by moving to expel three attorneys who tried to stop the union from adopting a controversial pro-Palestine resolution, the union has argued, asking a New York federal judge to dismiss the attorneys' Title VII lawsuit.

The ALAA **said Monday** that it hasn't expelled the attorneys yet, so they can't claim they were retaliated against in violation of Title VII of the Civil Rights Act when the union issued internal charges against them Nov. 21, 2023.

The union issued the charges five days after Ilana Kopmar, Diane T. Clarke and Isaac Altman **sought a temporary restraining order** in New York state court blocking the ALAA from adopting a pro-Palestine resolution that the attorneys called "extreme, rank antisemitism."

The ALAA does not deny that it issued the charges and initiated expulsion proceedings in response to the workers seeking the TRO. Rather, the ALAA claimed that the attorneys' choice to seek the TRO wasn't protected activity under Title VII; the attorneys haven't faced an adverse employment action that justifies their lawsuit; and the union had "legitimate, non-retaliatory reasons for filing and processing the charges."

To constitute protected activity under Title VII, the attorneys' TRO request would have needed to oppose an act of discrimination. Kopmar, Clarke and Altman argued that their request did just that: It opposed a resolution that was "a model of modern antisemitism, amounting to a 1,147-word diatribe against the existence of the Jewish state," as they put it in their second amended complaint.

Proposing the resolution "created an anti-Semitic hostile environment for Jewish ALAA members for whom Zionism is an essential part of their Jewish identity," the attorneys argued, saying that they fought it to oppose discrimination in the workplace.

The union argued that the attorneys' TRO request framed their opposition differently, in such a way that leaves it unprotected by Title VII.

"The crux of plaintiffs' argument was that adoption of the resolution through a unionwide vote would alienate Jewish clients and harm all ALAA members' reputations, because judges and other attorneys would automatically impute to them support for the resolution," the union said. "Plaintiffs did not identify themselves in the TRO action as belonging to a protected class, nor did they allege disparate treatment.

"In fact, they did just the opposite: they asserted that all ALAA members would be equally impacted by the adoption of the resolution," the union continued. "Moreover, alleging that an action will offend clients does not constitute a protest of statutorily prohibited employment discrimination."

An attorney for Kopmar, Clarke and Altman, Rory Lancman of the Louis D. Brandeis Center for Human Rights Under Law, said the union is mistaken that his clients didn't set out to combat discrimination by opposing the resolution.

"Federal labor law, and federal, state, and local anti-discrimination laws, protect union members such as plaintiffs from retaliation for asserting their right to oppose antisemitism in their union," Lancman

told Law360 in an emailed comment. "We are confident that the allegations in our detailed complaint demonstrate that is exactly what these three brave legal aid attorneys did."

The pro-Palestine resolution that the ALAA passed by a 1,067-570 member vote Dec. 19 landed the union in hot water, earning condemnation from the Legal Aid Society — which employs ALAA-represented attorneys — and the House of Representatives' Education and Workforce Committee, which **opened an investigation** into antisemitism at the union. The independent monitor overseeing the United Auto Workers, Neil Barofsky, also opened an investigation in February into potential retaliation by the ALAA against its members.

The resolution stated that the ALAA's members "reaffirm and deepen [their] connection to the Palestinian liberation struggle" amid the "ongoing horrors" in the Gaza Strip brought about by an Israeli bombing campaign, which began after the militant group that runs Gaza, Hamas, launched a terrorist attack on Israel on Oct. 7, 2023.

The resolution states that the ALAA endorses an economic boycott of Israel; opposes all military aid to the nation; and calls for "an end to Israeli apartheid and the occupation and blockade of Palestinian land, sea, and air by Israeli military forces."

Leftist groups such as the Democratic Socialists of America praised the ALAA for passing the resolution, and the New York Civil Liberties Union opposed the fallout to the resolution, saying that adopting it was an act of free speech.

Representatives of the union did not immediately respond to requests for comment Tuesday.

The attorneys are represented by Rory Lancman of the Louis D. Brandeis Center for Human Rights Under Law and Andrew M. Lieb and Cheryl L. Berger of Lieb at Law PC.

The union is represented by Allyson L. Belovin, Jessica I. Apter and Alexis S. Boyd of Levy Ratner PC.

The case is *Kopmar et al. v. the Association of Legal Aid Attorneys et al.*, case number 1:24-cv-05158, in the U.S. District Court for the Southern District of New York.

--Editing by Bruce Goldman.

*Update: This story has been updated with a comment from Lancman.*