

Legal Challenges to Anti-Boycott Laws (Last Updated September 29, 2023)

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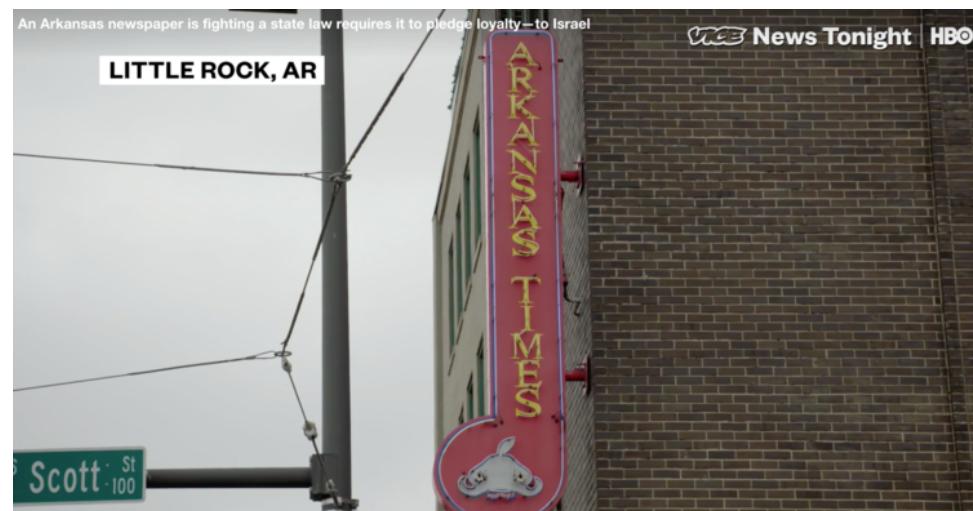
Last Updated July 10, 2023

Anti-boycott laws have been challenged in federal court, including in Arkansas, Arizona, Georgia, Kansas, Maryland and Texas. Federal district courts in four states have ruled that these states' laws, all of which require contractors with the state to sign pledges that they don't boycott Israel, are likely unconstitutional and that boycotts for Palestinian rights are protected by the First Amendment. However, in each state, the legislatures changed the laws that were challenged so that they no longer applied to the plaintiffs in order to moot the lawsuits. In February 2023, the Supreme Court declined to hear an appeal of a decision upholding Arkansas' anti-BDS law, but that decision remains an outlier among courts that have addressed the constitutionality of these laws.

Arkansas

Arkansas Times LP v. Waldrip

In December 2018, the [American Civil Liberties Union](#) filed a lawsuit challenging the [Arkansas anti-boycott law](#) on behalf of *The Arkansas Times*. The paper had lost substantial ad revenue after its publisher refused to sign a [pledge](#) that it would not boycott Israel. The paper argued that it should not be compelled to speak against boycotts for Palestinian rights, even though the newspaper itself takes no position on them. In January 2019 the district court dismissed the case. In February 2021 the Eighth Circuit Court of Appeals [reversed](#) that decision, finding the law unconstitutional. The state moved for a larger panel of judges to rehear the case. In June 2022, the Eighth Circuit, sitting en banc, [upheld](#) the Arkansas law. In February 2023, the Supreme Court [declined](#) to hear an appeal of the case.



Arizona

Jordahl v. Brnovich

In December 2017, the [American Civil Liberties Union](#) filed a lawsuit against [Arizona's anti-boycott law](#) on behalf of Mikkel Jordahl. After Arizona adopted its anti-boycott law, Jordahl, an attorney with a solo law practice, faced a difficult choice between his personal commitment to [boycotts in support of Palestinian freedom](#) and his professional interest in contracting with the state to provide legal services to people incarcerated in Coconino County, Arizona. In September 2018, the federal district court in Arizona blocked enforcement of the unconstitutional law. In 2019, the state legislature [amended](#) the law to exclude the plaintiff, rendering the case moot.



American Muslims for Palestine v. Arizona State University

In March 2018, the [Council on American-Islamic Relations](#) filed a lawsuit on behalf of American Muslims for Palestine and Dr. Hatem Bazian. Dr. Bazian had been invited to speak at Arizona State University but was required to sign a certification that he would not boycott Israel. After CAIR challenged the state law requiring the certification, the university offered Dr. Bazian a contract without the certification requirement.

Georgia

Martin v. Wrigley

In February 2020, the [Council on American-Islamic Relations](#) and the [Partnership for Civil Justice Fund](#) filed a lawsuit on behalf of journalist and filmmaker Abby Martin, who had been invited to speak at a conference at Georgia Southern University. The event was canceled after Martin refused to sign a pledge to not boycott Israel, required under [Georgia law](#). In May 2021, the district court [denied](#) defendants' motion to dismiss, calling the certification requirements of Georgia's anti-boycott law "unconstitutional compelled speech." After the ruling, Georgia legislators passed an amendment so that the law would no longer apply to contracts like Martin's that are below \$100,000. After the amendment went into effect in 2022, the court [dismissed the case](#) as moot, declining to hold state officials liable for the harm already done to Martin under the doctrine of qualified immunity. In unpublished per curiam [decision](#) in June 2023, the Eleventh Circuit Court of Appeals affirmed this ruling. Neither court ruled on the constitutionality of the law.



Kansas

Koontz v. Watson



In October 2017, the [American Civil Liberties Union](#) filed a challenge against the [Kansas anti-boycott law](#) on behalf of math teacher Esther Koontz. Koontz engaged in a boycott for Palestinian rights based on her Mennonite church's endorsement of the boycott. In order to participate in a teacher training program, Koontz was required to sign a certification that she does not boycott Israel. After Koontz sued, a district court blocked enforcement of the unconstitutional law in January 2018. The state legislature later [amended](#) the law to exclude the plaintiff, rendering the case moot.

Maryland

Ali v. Hogan

In January 2019, the [Council on American Islamic Relations](#) (CAIR) filed a lawsuit against [Maryland's anti-boycott executive order](#) on behalf of Saqib Ali, a software engineer who was unable to apply for contracts with the state because of Maryland's requirement that he pledge not to boycott Israel. The case was dismissed in October 2020 after a judge found that Ali did not have standing to challenge the law because he had not applied for or been awarded a state contract. The Fourth Circuit [upheld](#) the dismissal on appeal.



Texas

A & R Engineering and Testing v. Houston

After Texas evaded earlier challenges to its anti-boycott law, described below, by [amending](#) the law to apply only to contracts over \$100,000, the [Council on American-Islamic Relations](#) returned to court to block enforcement of the unconstitutional law in October 2021. The [suit](#), filed against the City of Houston on behalf of Russ Hassouna and his firm, A&R Engineering and Testing, argued that after nearly two decades of contracting with the city, Hassouna was unable to renew his firm's contract because the law required him to certify that the firm would not boycott Israel. In January 2022, the district court issued an injunction blocking both the city and the state attorney general from enforcing the law against Hassouna, citing constitutional concerns. Hassouna's firm entered into a contract with the city without the anti-boycott provision. Texas appealed the decision, arguing that because the state had not taken action against Hassouna, the state attorney general should not have been part of the lawsuit. In July 2023, the Fifth Circuit Court of Appeals [vacated](#) that portion of the injunction and dismissed the claims against the attorney general.



Amawi v. Pflugerville Independent School District

In December 2018, the [Council on American-Islamic Relations](#) filed a lawsuit on behalf of Bahia Amawi, a speech language pathologist who had worked with Arabic-speaking students in an Austin suburb since 2009. Amawi was told that under [Texas law](#) she would have to certify that she would not boycott Israel in order to renew her contract with the school district. The case was consolidated with *Pluecker v. Paxton* below.



Bahia Amawi
Speech Language Pathologist



Pluecker v. Paxton

In December 2018, the [American Civil Liberties Union](#) filed a lawsuit against the Texas anti-boycott law on behalf of four plaintiffs: two students who were told they had to sign pledges not to boycott Israel in order to judge high school debate tournaments, a reporter who was compelled to sign the certification to keep his job at a Texas A&M radio station, and a writer who lost two contracts as a translator and a speaker at the University of Houston for his refusal to sign the certification. After the case was consolidated with *Amawi v. Pflugerville Independent School District* above, the district court blocked enforcement of the unconstitutional law. In May 2019, the Texas legislature [amended](#) the law to exclude the plaintiffs, rendering the case moot.



Palestine Legal is an independent organization dedicated to defending and advancing the civil rights and liberties of people in the US who speak out for Palestinian freedom.

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