



American Civil Liberties Union of the National Capital Area

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Arthur B. Spitzer
LEGAL DIRECTOR

January 7, 2009
By hand delivery

Mr. John B. Catoe, Jr.
General Manager
Washington Metropolitan Area Transit Authority
600 Fifth Street, N.W.
Washington, DC 20001

Re: Flex Your Rights flyer

Dear Mr. Catoe:

You may not be aware that a lawyer on your staff, Ms. Sonia A. Bacchus, wrote to the Flex Your Rights Foundation last month, threatening to take legal action against the Foundation because it included WMATA's "M" logo as a small part of a flyer that Flex Your Rights has distributed, aimed at educating people about their legal rights in connection with WMATA's recently announced (and legally questionable) program of random searches. I enclose copies of Ms. Bacchus' letter and the Flex Your Rights flyer, for your information.

The American Civil Liberties Union of the National Capital Area has agreed to represent the Flex Your Rights Foundation in connection with this threat. We do not believe that Flex Your Rights has violated any legal right of WMATA's. The suggestion that readers of the flyer would believe that it represented WMATA's own speech is far-fetched. To the contrary, the flyer represents a constitutionally protected exercise by Flex Your Rights of the right to criticize the government.

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Flex Your Rights does not intend to comply with the demands made in Ms. Bacchus' letter. We trust that, upon further consideration, WMATA will agree that it is unseemly for a government agency in the United States to threaten its critics with unfounded litigation, and will decide not to burden its paying customers with the cost of an unsuccessful lawsuit.

Very truly yours,



Arthur B. Spitzer

cc: Hon. Christopher Zimmerman

Hon. Jim Graham

Carol B. O'Keeffe, Esq.

Sonia A. Bacchus, Esq.