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Conservative law firm fights atheists' suit over cross at 9/11 museum

Steve Strunsky | Aug. 21, 2012

A lawsuit that was filed by the group American Atheists to keep a revered cross out of the National September 11 Museum is being challenged by a conservative law firm that defends the public display of religious symbols.

The American Center for Law and Justice filed a friend-of-the-court brief Monday on behalf of the suit's two defendants, the National September 11 Memorial & Museum Foundation and the Port Authority of New York and New Jersey, which owns the site.

"The legal arguments of the atheist organization are both offensive and absurd," the center's chief counsel, Jay Sekulow, said in a statement. He said 190,000 people had signed a petition opposing the lawsuit.

The lawsuit is just one more controversy surrounding the 9/11 museum, which has been delayed by an ongoing financial dispute between the foundation and the Port Authority. Most recently, the foundation has resisted efforts by some victims' family members to place the Koenig Sphere at the entrance to the museum. Like the cross, the sphere survived the attack damaged but intact, and has become a symbol of resilience.

The 9/11 museum isn't open yet. But the foundation plans to include the 17-foot cross among more than 1,000 objects, including firetrucks, an ambulance and the 37-foot "Last Column," left standing on the site of the former World Trade Center. The cross is actually two intersecting steel beams, found amid the wreckage of the collapsed twin towers after the 9/11 attacks.

American Atheists filed the suit a year ago in U.S. District Court in Manhattan. The suit claims that including the cross in a museum on public property amounts to an unconstitutional government endorsement of religion. It also asserts the presence of the cross would result in injury -- emotional and even physical in the case of extreme anxiety -- to atheists left feeling excluded from what should be a place of unity and healing.

The foundation acknowledged in a filing in response to the suit that the cross "was venerated by certain workers during the course of the rescue and recovery operation at Ground Zero, including in religious services conducted by a priest."

But, it insists, the cross is being included for historical, not religious, purposes.

For its part, the foundation argues that as a private, nonprofit group, it is not bound by the Establishment Clause of the First Amendment, the constitutional basis for the separation of church and state.

The Port Authority notes that it "has no role in the display of the steel cross in the museum."

The Washington-based ACLJ, founded by religious broadcaster Pat Robertson, describes itself as a nonprofit, pro bono law firm "dedicated to the concept that freedom and liberty are universal, God-given and inalienable rights that must be protected."

Michael Frazier, a spokesman for the 9/11 foundation, said his group had not sought the center's help. "While it

may be kind, we have not been working with the ACLJ," he said.

Edwin Kagin, the American Atheists' national legal director, welcomed the center inserting itself into the case.

"It's fine with me," Kagin said. "It's merely more proof that religion is truly behind this."

[Steve Strunsky writes for *The Star-Ledger* in Newark, N.J.]

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