

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

AMERICAN CIVIL LIBERTIES UNION)
125 Broad Street, 18th Floor, New York, N.Y.,)

CHANGE THE CLIMATE, INC.)
23 Orchard Street, Greenfield, MA 01301,)

THE DRUG POLICY ALLIANCE)
925 Fifteenth Street, N.W.)
Washington, D.C. 20005,)

and)

MARIJUANA POLICY PROJECT)
P.O. Box 77492, Washington, DC 20013)

Plaintiffs,)

v.)

C.A. No. 04-262

THE HONORABLE NORMAN Y. MINETA)
U.S. Secretary of Transportation)
U.S. Department of Transportation)
400 7th Street, S.W., Washington, DC 20590,)

THE UNITED STATES OF AMERICA)
c/o Roscoe C. Howard, Jr., Esquire)
U. S. Attorney for the District of Columbia)
555 Fourth Street, N.W., Washington, D.C.,)

and)

WASHINGTON METROPOLITAN AREA)
TRANSIT AUTHORITY)
600 Fifth Street, N.W., Washington, DC 20001)
202-962-2569)

Defendants.)

ANSWER OF DEFENDANT WMATA TO THE FIRST AMENDED COMPLAINT

FIRST DEFENSE

The complaint fails to state a cause of action against Defendant WMATA for which relief can be granted.

SECOND DEFENSE

1. This is a summary of the Complaint to the extent a response is required the allegations are denied.
2. Defendant WMATA admits the allegations of the first clause of the first sentence of paragraph 2. WMATA is without knowledge sufficient to form a belief as to the purpose of Section 177 and the other allegations of the first sentence of paragraph 2 and they are therefore denied. As to the remaining allegations, the text of the report is the best evidence of its contents.
3. Defendant WMATA denies the allegations of paragraph 3, except it admits that in February 2004 it refused to accept advertising that promotes the legalization of marijuana.
4. This is a summary of the relief sought to which no response is required; to the extent a response is required it is denied.

JURISDICTION

5. Defendant WMATA admits only that this Court has jurisdiction against the United States on the basis of 28 U.S.C. § 1331.
6. Defendant WMATA denies that this Court has jurisdiction over WMATA based upon either 42 U.S.C. § 1983 or 29 U.S.C. § 2201 and thus the allegations of paragraph 6 are denied.
7. Defendant WMATA admits only that venue is proper.

THE PARTIES

8. Defendant WMATA lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 8 of the Complaint, and thus they are denied.

9. Defendant WMATA lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 9 of the Complaint, and thus they are denied.

10. Defendant WMATA lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 10 of the Complaint, and thus they are denied.

11. Defendant WMATA lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 11 of the Complaint, and thus they are denied.

12. Defendant WMATA admits the allegations of the first three sentences of paragraph 12. Defendant WMATA admits that it is the recipient of federal funds under the Consolidated Appropriations Act of 2004, but specifically denies that it is the grantee of any funds appropriated thereunder in connection with the Dulles Corridor Rapid Transit Project.

13. Admitted.

14. Defendant WMATA admits the allegations of the first, second, third and final sentences of paragraph 12 of the Amended Complaint. WMATA admits that, through an agent, it sells advertising space on its buses, in its trains and busses, and in

Metrorail stations. WMATA denies that it sells advertising space on its bus shelters.

FACTUAL ALLEGATIONS

15. Defendant WMATA admits that it ran several Change the Climate, Inc. advertisements on its buses, in its trains, and in its Metrorail stations, but denies that it ran any advertisements on its bus shelters. Defendant WMATA denies that each advertisement had the subheading "Legalize and Tax Marijuana," but admits that one advertisement had this subheading. Defendant WMATA admits that each advertisement had the Change the Climate, Inc. web address.

16. Defendant WMATA admits that it has previously displayed Office of National Drug Control Policy anti-drug advertisements.

17. Defendant WMATA admits that on or about November 10, 2003, Representative Ernest Istook of Oklahoma complained to WMATA about the content of the Change the Climate, Inc. advertisements.

18. Defendant WMATA lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 18 of the Complaint, and thus they are denied.

19. Admitted.

20. Admitted.

21. Admitted.

22. Defendant WMATA admits only that it rejected the advertisements due to concern about jeopardizing its federal funding. The remaining allegations of paragraph 22 are denied.

23. Denied.

24. Denied.

25. Defendant WMATA lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 25 of the Complaint, and thus they are denied.

26. Defendant WMATA only admits that it will reject advertisements that may jeopardize its federal funding. The remaining allegations of paragraph 26 are denied.

CAUSES OF ACTION

COUNT I

27. WMATA is not obligated to respond to the allegations of paragraphs 27-33, as this cause of action only concerns the federal defendants.

COUNT II

(against Defendant WMATA)

34. Denied.

THIRD DEFENSE

The Court lacks jurisdiction against WMATA and WMATA is not liable for damages or attorneys fees.

Respectfully Submitted,
WMATA

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