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Press Release

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For Immediate Release

**APPEALS COURT UPHOLDS
NEW YORK CITY DEPARTMENT'S OF EDUCATION
HOLIDAY DISPLAYS POLICY**

COURT FINDS THAT POLICY "PROMOTES SCHOOLCHILDREN'S UNDERSTANDING AND RESPECT FOR THE MANY CULTURAL TRADITIONS CELEBRATED IN NEW YORK CITY DURING THE WINTER HOLIDAY SEASON"

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New York, Feb. 3, 2006 – In a 2-1 decision reached yesterday, the United States Court of Appeals for the Second Circuit rejected a challenge brought by a woman, Andrea Skoros, against the holiday displays policy implemented by the New York City Department of Education (DOE) for the City's public elementary and secondary schools. The plaintiff, a Roman Catholic suing on behalf of herself and her two minor children, asserted that the policy violates her children's rights under the Establishment and Free Exercise Clauses of the First Amendment, as well as her parental right to control her children's religious upbringing and education as secured by the First and Fourteenth Amendments.

"We are pleased that the court correctly upheld the City's holiday displays policy and recognized that its intent is to provide all City schoolchildren with an appreciation of New York's rich and diverse holiday customs," noted Cheryl Payer, a Senior Counsel at the New York City Law Department who served as the lead appeals lawyer for the City.

In the case, Andrea Skoros alleged that the holiday display policy was unconstitutional because, while it generally permitted only nonreligious symbols of end-of-year holidays such as Christmas, Chanukah, Ramadan and Kwanza, it specifically allowed the display of menorahs and the star and crescent if displayed with symbols of other traditions – but it did not permit the display of nativity scenes, called crèches. The Court credited the DOE explanation that the policy "seeks to avoid the use of any holiday symbols that depict deities" and remarked, "While Skoros's complaint seeks to enjoin the operation of the DOE holiday display policy, the record suggests that her goal is not so much to preclude [the] defendants' use of the menorah or the star and crescent as it is to compel inclusion of the crèche in public school holiday displays."

In rejecting plaintiff's challenge, the Court's opinion found that "[N]o objective observer of the displays in evidence would understand the defendants' purpose to be other than...to promote schoolchildren's understanding and respect for the many cultural traditions celebrated in New York City during the winter holiday season."

It continued, "Certainly, no objective observer would understand the purpose of the displays to be the endorsement or promotion of Judaism or Islam or the denigration of Christianity, as alleged by the plaintiff....The displays acknowledge the rich cultural diversity of New York City, permitting all children to feel included in some way in the holiday season while simultaneously teaching all children to understand and respect traditions and cultures different from their own."

The Court also found that “parents [have] no fundamental constitutional right to dictate the curriculum at the public school to which they have chosen to send their children.”

Attorneys Lisa Grumet, Janice Silverberg, and John Pines of the General Litigation Division, and Stephen J. McGrath and Cheryl Payer of the Appeals Division represented the DOE, as did Debbie King and Robin Greenfield of the Department of Education’s counsel’s office. Laryssa Kryvolap of the General Litigation support staff also provided essential assistance.

Skoros was represented in the lawsuit by the Thomas More Law Center of Ann Arbor, Michigan.

The full court decision, which includes other legal conclusions reached by the majority as well as the dissenting opinion, can be obtained by contacting the Law Department’s Media & Communications Office at (212) 788-0400.

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