

Lawmaker sued for banning 2 constituents from Facebook page

October 26 2018, by Rachel La Corte

A Washington state lawmaker has been sued by two constituents who argue their First Amendment rights are being violated because they've been banned from commenting on the state lawmaker's Facebook page.

The suit against Rep. Jim Walsh, filed in U.S. District Court in Tacoma on Wednesday, says the Aberdeen Republican unlawfully censored Jeff Nichols and Gilbert Myers when he banned them from his 'politician' page on the social media site.

"By banning access to this forum and deleting comments based on the viewpoint of the speaker, Representative Walsh has violated plaintiffs' right to free expression, to petition the government for a redress of wrongs and grievances, and to hear the banned speech that would have otherwise been engaged in, distorting the expressive forum," the lawsuit says.

The lawsuit seeks an injunction requiring Walsh to restore the posting privileges of Nichols and Myers, as well as anyone else banned for their viewpoints, and seeks "nominal damages and compensatory damages" as well as attorney fees.

Walsh, who says the lawsuit is politically motivated, says that he only banned the men after warning them about posts he says involved swearing or were otherwise uncivil.

"My posts are full of people who are critical of me, and as long as they

keep it civil, that's fine," he said. "These two gentlemen did not keep it civil, and they know it."

An attorney for the men disputes that any uncivil posts were made. Walsh said Friday that he has screenshots of the since-deleted posts but declined to share them.

Attorney Billie Morelli said that Myers never posted comments, just reacted to other posts, and that Nichols believes he was banned after posting a link to a labor report card on Walsh's votes in the Legislature.

"In the United States, the government is not allowed to put duct tape on citizens' mouths just because they don't like what's being said," she said.

Earlier this year, a federal court in New York ruled that President Donald Trump couldn't block people expressing their views from his Twitter feed because the account is a public forum. Trump is appealing the ruling.

The Washington state suit comes nearly a year after the ACLU of Washington sent a letter to lawmakers warning them that blocking or censoring people from social media accounts like Twitter or Facebook runs afoul of the First Amendment if done solely because of the viewpoints expressed.

Walsh, who is up for re-election this year, was just 136 votes ahead of his Democratic opponent, Erin Frasier, in August's top-two primary, and his seat is one of several Republicans are trying to defend in November's election as Democrats hope to increase their narrow majority in the chamber.

Nichols, of Montesano, Washington, is president of the Twin Harbors Central Labor Council AFL-CIO. Myers, of Aberdeen, worked on the

campaign of Democrat Teresa Purcell, who narrowly lost to Walsh two years ago.

The competitive race is among a handful of districts where voters recently received campaign flyers in the mail encouraging them to write-in a "real progressive" candidate—in this case Purcell—instead of Frasier. Purcell supports Frasier in the race, and Walsh and other Republican candidates have spoken out against the misleading mailers.

But Walsh said that the timing of the lawsuit is suspect.

"This is a political stunt, this isn't principle," he said.

Morelli said that while her clients are aware of the flyers, the lawsuit has nothing to do with them.

"Jeff and Gil want to be able to participate in the conversation," she said. "This is a highly contested race and they're being excluded from the discussion."

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