

**NINETY-EIGHTH NATIONAL CONVENTION  
OF  
THE AMERICAN LEGION  
Cincinnati, Ohio  
August 30, 31, September 1, 2016**

**Resolution No. 301: Eliminate Damages and Attorney Fees in Establishment Clause Lawsuits**

**Origin: Convention Committee on Americanism**

**Submitted by: Convention Committee on Americanism**

WHEREAS, The American Legion, whose motto is “For God and Country” and has been since its founding by veterans of World War I in 1919, is leading a nationwide effort to combat the secular cleansing of our American heritage through Establishment Clause lawsuits; and

WHEREAS, Many Americans mistakenly believe that the words “separation of church and state” are included in the Constitution of the United States and provide the legal basis for removal of symbols with a religious aspect or references to God in our National Motto or to our country’s founders’ reliance on God, from veterans memorials, and other public lands, areas, monuments, buildings, seals or ceremonies; and

WHEREAS, The First Amendment to the Constitution nowhere in fact mentions “separation of church and state,” nor “separation of state from religion,” but states only: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”; and

WHEREAS, Judges in increasing numbers have issued orders in Establishment Clause cases that ban the Boy Scouts, ban the Ten Commandments, ban religious symbols at veterans memorials, ban the Pledge of Allegiance, ban historical religious symbols in the official seals of counties, and ban cities and the Department of Defense from assisting the Boy Scouts, and judges in such cases have awarded millions of dollars to the American Civil Liberties Union (ACLU) and others in attorney fees to be paid by taxpayers as authorized by 42 U.S. Code Section 1988, the Equal Access to Justice Act, 28 U.S. Code Section 2412, and/or other federal statutes; and

WHEREAS, The American Legion believes that all federal statutes of the United States should be amended to rescind and repeal the authority Congress gave the courts to impose damages or attorney fees in Establishment Clause cases, as the threat of judge-ordered damages or attorney fees is being used as a club to compel local elected bodies, villages, towns, cities, counties, school boards and state and federal agencies, to surrender to demands to remove or destroy symbols or expressions of a religious aspect from all areas of the public sphere for fear of imposition of damages or attorney fees to be paid by taxpayers, and is being used to chill private citizens from exercising the First Amendment right to seek redress by entering Establishment Clause lawsuits to defend symbols of and references to our American heritage, for fear that damages or attorney fees will be imposed upon them personally; and

WHEREAS, The 86th National Convention of The American Legion, August 31 – September 1, 2, 2004, passed Resolution 326, titled “Preserve WWI Veterans Memorial in Mojave Desert”, which called on Congress to amend the Civil Rights Attorney Fees Act of 1976, 42 U.S. Code Section 1988, to prohibit the courts from awarding attorney fees under that statute in lawsuits brought to remove or destroy religious symbols; and

WHEREAS, The 87th National Convention of The American Legion, August 23, 24, and 25, 2005, passed Resolution 139, titled “Amend the Equal Access to Justice Act”, which called on Congress to amend 28 U.S. Code Section 2412, or any other similar federal statute, to limit remedies to declaratory and injunctive relief only and to eliminate court-ordered attorney fee awards in cases brought under the Establishment of Religion Clause of the U.S. Constitution; now, therefore, be it

**RESOLVED, By The American Legion in National Convention assembled in Cincinnati, Ohio, August 30, 31, September 1, 2016, That The American Legion urge the Congress of the United States to amend the Civil Rights Attorney Fees Act of 1976, 42 U.S. Code Section 1988, the Equal access to Justice Act, 28 U.S. Code 2412, and any and all other federal statutes, to limit remedies to injunctive relief and declaratory relief only, and to rescind the authority of the courts to award attorney fees to the prevailing party in lawsuits brought under the Establishment of Religion Clause in the U.S. Constitution.**