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## Why Destination Boycott Contract Clauses May Not Be a Viable Legal Tactic

by ***Lisa Sommer Devlin*** (/author/authorid/35)

Earlier this year, the issue of destination boycotts once again made the news, when **the passage of anti-abortion laws in several states** (<https://www.meetingstoday.com/magazines/article-details/articleid/33544/title/anti-abortion-threaten-meetings-destination-boycotts>) led some groups to contemplate canceling their contracted events in certain destinations.

This issue is especially relevant for the meetings industry as we enter into a presidential election year in 2020, which will no doubt increase the level of political polarization in the U.S. and most likely result in the passage, or attempted passage, of additional controversial laws.

Because of this development, I thought it would be a good idea to examine the viability of contract clauses that attempt to protect meetings and conventions groups from the obligation to pay for canceling a booked event for political reasons.

**An article in Meetings Today** (<https://www.meetingstoday.com/magazines/article-details/articleid/33556/title/destination-boycotts-meeting-contract-clause>) suggested that, in light of the recent passage of several very controversial laws, meeting planners should consider including a clause in their event contracts allowing the group to cancel *without liability* if such an “objectionable” law is passed in the locale where their meeting is contracted.

As an attorney that exclusively represents hotels, I want to make clear that such a plan is very unlikely to work.



*Sketch of a Raised Fist in Protest, Credit: Shutterstock*

- Usually the clauses are extremely vague and overbroad, so that they could be used for almost anything, leading to disputes. One “model” clause recommended by an industry organization has so many drafting issues that it would undoubtedly lead to litigation if a group ever tried to rely upon it to cancel.
- A hotel must book “real” business. It can’t hold inventory for months, or years in the case of many associations that request these clauses, on a tentative basis. These clauses make the booking tentative, because it could cancel at any minute without payment if a government agency does something the group perceives as inappropriate.
- The hotels are often against the very legislations that the group dislikes, sometimes even lobbying against it. Why should the hotel bear the loss caused by a political issue with which it doesn’t agree?

It is easy to cancel based on “convictions” when there is no cost to you. Putting the financial burden of those convictions on the hotel is not fair.

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Groups can certainly refuse to book states in protest of the state’s politics, but they should not expect to be able to cancel confirmed contracts with no obligation based on something that happens after the contract is signed. Some hotels have negotiated contracts in which the group pays a lower amount of damages if the cancellation is for a political reason.

While there is no real legal basis for doing this, it is at least an attempt to “share the pain.”

## **Ways to Take Action Beyond Boycotting a Destination**

How can meeting planners protect their organizations or groups from the negative effects of destination boycotts, which may include last-minute cancellation fees, while still supporting the political beliefs of their group and individual attendees? Here are several options:

- Educate attendees that a full-scale destination boycott will be a significant cost to the organization in terms of cancellation or attrition obligations.
- Use the event as a platform to protest the law.
- Demonstrate.
- Do community service in support of those involved.
- Invite a panel of speakers to address the issues.

## Make an Impact Where It Matters Most

The polarization of our country is not going to be solved by separating ourselves from those with whom we disagree. The Civil Rights activists in the 1960s did not hold their marches in unsegregated cities. A group with strong political convictions should stand up to the laws it disagrees with by holding its meeting as planned and taking action, rather than expecting its hotel partner to take a financial loss that will likely not impact the issue.

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Lisa Sommer Devlin has practiced law since 1984 and has concentrated in hospitality law for over 25 years. She negotiates contracts, provides legal training for sales staff and handles convention and meeting related litigation nationwide for major hotel companies and many independent hotels.

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