



RJ Reynolds v. FDA, 2012 U.S. App. LEXIS 24978 (D.C. Cir.)

696 F.3d 1205 (D.C. Cir. 2012), 845
F.Supp.2d 266 (D.D.C. 2012), 823
F.Supp.2d 36 (D.D.C. 2011)

Topics Covered: Anti-tobacco

Outcome: Very Unfavorable

AMA Interest

The AMA supports a smoke-free America.

Case Summary

Pursuant to the Family Smoking Prevention and Tobacco Control Act, the Food and Drug Administration (FDA) issued a regulation that would require tobacco companies to display enhanced warnings of the danger of tobacco usage on their cigarette packaging and in their advertising. These warnings would include textual statements along with emotionally charged graphic images. The new warnings were to occupy the top half of both sides of the cigarette packaging and the top fifth of cigarette advertising.

Several large tobacco companies sued the FDA and the Department of Health and Human Services for an injunction against the regulation. They alleged that the labeling requirement would violate their First Amendment rights and that the FDA had passed the regulation without following all the steps mandated in the Administrative Procedure Act. The plaintiffs moved for a preliminary injunction to prevent enforcement of the FDA regulation, and this motion was granted. They then moved for summary judgment and a permanent injunction, and this motion was also granted.

The government appealed to the United States Court of Appeal for the District of Columbia Circuit. By a split decision, the Court of Appeals affirmed the trial court and ordered that the case be remanded to the FDA for further consideration. The FDA petitioned for rehearing and rehearing *en banc*, but both petitions were denied.

AMA Involvement

The AMA and several other anti-tobacco organizations filed two trial level *amicus* memorandums and a brief in the D.C. Circuit to support the FDA regulation.

United States District Court memorandum supporting the FDA regulation

United States District Court memorandum in opposition to plaintiffs' motion for summary judgment

Court of Appeals brief