



23-34 94th St. Grocery Corp. v. New York City Board of Health, 685 F.3d 174 (2nd Cir. 2012)

Topics Covered: Anti-tobacco

Outcome: Very Unfavorable

Issue

The issue in this case was whether an ordinance requiring retail outlets selling tobacco products to post city-provided graphic warning signs was valid under the First Amendment.

AMA Interest

The AMA, in keeping with its objective of protecting public health, supports a smoke-free America.

Case Summary

New York City passed an ordinance requiring that retail outlets selling tobacco products post city-provided graphic warning signs. A number of retailers brought suit to challenge the validity of the ordinance under the First Amendment.

The trial court found the anti-smoking ordinance pre-empted by the 1965 Federal Cigarette Labeling and Advertising Act (FCLAA) and thus invalid. It entered summary judgment for the plaintiffs.

New York City appealed, but on July 10, 2012 the Second Circuit affirmed, finding that the FCLAA preempted the city ordinance.

AMA Involvement

The AMA, along with several other anti-smoking organizations, filed amicus briefs in the district court and in the court of appeals to support the ordinance.

United States District Court brief

Second Circuit brief