



Lorillard Tobacco Company v. American Legacy Foundation 903 A.2d 728 (Del. 2006)

Topics Covered: Anti-tobacco

Outcome: Very Favorable

Issue

The issue in this case was whether an anti-tobacco advertising campaign vilified a tobacco company in violation of the terms of a previously entered master settlement agreement.

AMA Interest

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

Case Summary

The American Legacy Foundation (ALF) was created by the 1998 Master Settlement Agreement (“MSA”), which resolved the lawsuits filed by most of the states against the nation’s largest tobacco companies. The principal purpose of the ALF was to develop advertising campaigns to discourage youth smoking.

Lorillard Tobacco Company, one of the parties to the MSA, contended that the ALF advertising was vilifying it, in violation of the MSA. ALF sued Lorillard for a declaratory judgment that it was not violating the MSA. The Delaware Chancery Court sided with ALF and entered summary judgment in its favor. Lorillard appealed that judgment.

The Delaware Supreme Court affirmed.

Litigation Center Involvement

The Litigation Center and the Medical Society of Delaware, along with several other public health organizations, filed an amicus curiae brief in the Delaware Supreme Court in support of the ALF. The amicus brief pointed out that effective anti-tobacco advertising must be somewhat provocative, and so the advertisements here should not, in context, be deemed vilifying.

Supreme Court of the State of Delaware brief