



New York State Restaurant Association v. New York City Board Of Health

556 F.3d 114 (2d. Cir. 2009)

Topics Covered: Food Labeling, Public Health

Outcome: Very Favorable

Issue

The issue in this case was whether a New York City Board of Health regulation requiring chain restaurants to provide nutritional information about their food should be declared invalid on account of preemption by a federal statute and implementing FDA regulations.

AMA Interest

The AMA supports governmental policies to require chain restaurants to provide customers with nutritional information.

Case Summary

The New York City Health Code required that certain restaurants post the calorie content of their menu items. The regulation applied only to "menu items that are served in portions the size and content of which are standardized and for which calorie content is [already] made publicly available." Thus, the regulation applied only to those New York City food service establishments that served food menu items in portions standardized for size and content — in other words — chain restaurants.

The New York State Restaurant Association sued the New York City Board of Health for a determination that the Nutritional Labeling and Education Act of 1990, 21 U.S.C. §§ 301, et seq., ("NLEA") and the implementing FDA regulations preempted the calorie posting regulation. The restaurant association also claimed that the Board of Health regulation infringed the restaurants' First Amendment right to Freedom of Speech. However, the district court and then the court of appeals upheld the regulation.

Litigation Center Involvement

The Litigation Center, along with the Medical Society of the State of New York (MSSNY) and several other amici, filed amicus curiae briefs in the federal trial court and then in the Second Circuit to support the calorie disclosure regulation.

United States District Court brief

United States Court of Appeal for the Second Circuit brief