



National Restaurant Association v. New York City Department of Health (NY S.Ct. App. Div.)

Topics Covered: Food Labeling, Public Health

Issue

The issue in this case is whether a New York City Department of Health regulation, which requires chain restaurants to post the sodium content of their foods, along with warnings about the possibly deleterious effects of high sodium intake, is valid.

AMA Interest

The AMA supports laws requiring fast-food and other chain restaurants to provide consumers with nutrition information, including sodium content.

Case Summary

Section 81.49 of the New York City Health Code requires New York City chain restaurants with 15 or more locations to post, on their menus or menu boards, a small salt shaker symbol next to any food item or combination meal that contains 2,300 milligrams or more of sodium. The salt shaker is to be accompanied by a warning: “the sodium (salt) content of this item is higher than the total daily recommended limit (2,300 mg). High sodium intake can increase blood pressure and risk of heart disease and stroke.”

The National Restaurant Association (NRA) sued for a declaratory judgment and injunction against the sodium warning regulation, asserting it is invalid. NRA made the following arguments:

1. The regulation violates the principle of separation of powers.
2. The regulation is arbitrary and capricious.
3. The regulation violates the First Amendment.
4. The regulation is preempted by the Federal Nutrition Labeling and Education Act, 21 U.S.C. §§ 343-343-3.

The trial court rejected all of these arguments and entered judgment for the Department of Health.

NRA has now appealed to the New York Supreme Court Appellate Division.

Litigation Center Involvement

The Litigation Center and the Medical Society for the State of New York joined an amicus brief to support the Department of Health regulation. The brief argued that the scientific premise behind the regulation is sound: sodium consumption above 2,300 milligrams at a single meal can be harmful to health.

New York Supreme Court Appellate Division brief