

FILED: May 4, 2020

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 19-2130 (L)  
(8:18-cv-00883-PWG)

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In re: CIGAR ASSOCIATION OF AMERICA; CIGAR RIGHTS OF AMERICA;  
PREMIUM CIGAR ASSOCIATION, f/k/a International Premium Cigar and Pipe  
Retailers Association

Appellants

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AMERICAN ACADEMY OF PEDIATRICS; MARYLAND CHAPTER- AMERICAN  
ACADEMY OF PEDIATRICS; AMERICAN CANCER SOCIETY CANCER ACTION  
NETWORK; AMERICAN HEART ASSOCIATION; AMERICAN LUNG  
ASSOCIATION; CAMPAIGN FOR TOBACCO-FREE KIDS; TRUTH INITIATIVE;  
DR. LEAH BRASCH, MD; DR. CYNTHIA FISHMAN, MD; DR. LINDA  
GOLDSTEIN, MD; DR. STEVEN HIRSCH, MD; DR. DAVID MYLES, MD

Plaintiffs - Appellees

v.

UNITED STATES FOOD AND DRUG ADMINISTRATION; NORMAN E.  
SHARPLESS, in his official capacity as Acting Commissioner of Food and Drugs;  
UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; ALEX  
M. AZAR, II, in his Official capacity as Secretary of Health and Human Services

Defendants

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STATE OF MARYLAND; MARYLAND ASSOCIATION OF COUNTY HEALTH  
OFFICERS

Amici Supporting Appellees

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No. 19-2132  
(8:18-cv-00883-PWG)

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AMERICAN ACADEMY OF PEDIATRICS; MARYLAND CHAPTER- AMERICAN ACADEMY OF PEDIATRICS; AMERICAN CANCER SOCIETY CANCER ACTION NETWORK; AMERICAN HEART ASSOCIATION; AMERICAN LUNG ASSOCIATION; CAMPAIGN FOR TOBACCO-FREE KIDS; TRUTH INITIATIVE; DR. LEAH BRASCH, MD; DR. CYNTHIA FISHMAN, MD; DR. LINDA GOLDSTEIN, MD; DR. STEVEN HIRSCH, MD; DR. DAVID MYLES, MD

Plaintiffs - Appellees

v.

AMERICAN E-LIQUID MANUFACTURING STANDARDS ASSOCIATION; AMERICAN VAPING ASSOCIATION; SMOKE-FREE ALTERNATIVES TRADE ASSOCIATION- CALIFORNIA; ARIZONA SMOKE FREE BUSINESS ALLIANCE; SMOKE-FREE ALTERNATIVES TRADE ASSOCIATION- CONNECTICUT; INDIANA SMOKE FREE ASSOCIATION; SMOKE-FREE ALTERNATIVES TRADE ASSOCIATION- HAWAII; IOWANS FOR ALTERNATIVE TO SMOKING AND TOBACCO; SMOKE-FREE ALTERNATIVES TRADE ASSOCIATION- LOUISIANA; KENTUCKY SMOKE FREE ASSOCIATION; SMOKE-FREE ALTERNATIVES TRADE ASSOCIATION- RHODE ISLAND; MARYLAND VAPOR ALLIANCE; SMOKE-FREE ALTERNATIVES TRADE ASSOCIATION- TEXAS; NEW YORK STATE VAPOR ASSOCIATION; SMOKE-FREE ALTERNATIVES TRADE ASSOCIATION- WISCONSIN; OHIO VAPOR TRADE ASSOCIATION; RIGHT TO BE SMOKE-FREE COALITION; SMOKE FREE ALTERNATIVES TRADE ASSOCIATION; TENNESSEE SMOKE FREE ASSOCIATION; TEXAS VAPOR COALITION

Intervenors - Appellants

and

UNITED STATES FOOD AND DRUG ADMINISTRATION; NORMAN E. SHARPLESS, in his official capacity as Acting Commissioner of Food and Drugs; UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; ALEX M. AZAR, II, in his Official capacity as Secretary of Health and Human Services

Defendants

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WASHINGTON LEGAL FOUNDATION; CONSUMER ADVOCATES FOR  
SMOKE-FREE ALTERNATIVES ASSOCIATION; MICHAEL SIEGEL

Amici Supporting Appellant

STATE OF MARYLAND

Amicus Supporting Appellee

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No. 19-2198  
(8:18-cv-00883-PWG)

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AMERICAN ACADEMY OF PEDIATRICS; AMERICAN CANCER SOCIETY  
CANCER ACTION NETWORK; AMERICAN HEART ASSOCIATION; AMERICAN  
LUNG ASSOCIATION; LEAH BRASCH, MD; CAMPAIGN FOR TOBACCO-FREE  
KIDS; CYNTHIA FISHMAN, MD; LINDA GOLDSTEIN, MD; STEVEN HIRSCH,  
MD; DAVID MYLES, MD; TRUTH INITIATIVE; MARYLAND CHAPTER-  
AMERICAN ACADEMY OF PEDIATRICS

Plaintiffs - Appellees

v.

UNITED STATES FOOD AND DRUG ADMINISTRATION; NORMAN E.  
SHARPLESS, in his official capacity as Acting Commissioner of Food and Drugs;  
UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; ALEX  
M. AZAR, II, in his Official capacity as Secretary of Health and Human Services

Defendants - Appellants

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STATE OF MARYLAND; MARYLAND ASSOCIATION OF COUNTY HEALTH  
OFFICERS

Amici Supporting Appellees

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No. 19-2242  
(8:18-cv-00883-PWG)

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In re: AMERICAN E-LIQUID MANUFACTURING STANDARDS ASSOCIATION; AMERICAN VAPING ASSOCIATION; ARIZONA SMOKE FREE BUSINESS ALLIANCE; INDIANA SMOKE FREE ASSOCIATION; IOWANS FOR ALTERNATIVE TO SMOKING AND TOBACCO; KENTUCKY SMOKE FREE ASSOCIATION; MARYLAND VAPOR ALLIANCE; NEW YORK STATE VAPOR ASSOCIATION; OHIO VAPOR TRADE ASSOCIATION; RIGHT TO BE SMOKE-FREE COALITION; SMOKE FREE ALTERNATIVES TRADE ASSOCIATION; SMOKE-FREE ALTERNATIVES TRADE ASSOCIATION- CALIFORNIA; SMOKE-FREE ALTERNATIVES TRADE ASSOCIATION- CONNECTICUT; SMOKE-FREE ALTERNATIVES TRADE ASSOCIATION- HAWAII; SMOKE-FREE ALTERNATIVES TRADE ASSOCIATION- LOUISIANA; SMOKE-FREE ALTERNATIVES TRADE ASSOCIATION- RHODE ISLAND; SMOKE-FREE ALTERNATIVES TRADE ASSOCIATION- TEXAS; SMOKE-FREE ALTERNATIVES TRADE ASSOCIATION- WISCONSIN; TENNESSEE SMOKE FREE ASSOCIATION; TEXAS VAPOR COALITION

Appellants

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AMERICAN ACADEMY OF PEDIATRICS; AMERICAN CANCER SOCIETY CANCER ACTION NETWORK; AMERICAN HEART ASSOCIATION; AMERICAN LUNG ASSOCIATION; LEAH BRASCH; CAMPAIGN FOR TOBACCO-FREE KIDS; CYNTHIA FISHMAN; LINDA GOLDSTEIN; STEVEN HIRSCH; DAVID MYLES; MARYLAND CHAPTER- AMERICAN ACADEMY OF PEDIATRICS; TRUTH INITIATIVE

Plaintiffs - Appellees

v.

UNITED STATES FOOD AND DRUG ADMINISTRATION; SCOTT GOTTLIEB, in his Official capacity as Commissioner of Food and Drugs; NORMAN E. SHARPLESS, in his Official capacity as Commissioner of Food and Drugs; UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; ALEX M. AZAR, II, in his

Official capacity as Secretary of Health and Human Services; AMERICAN ASSOCIATION FOR RESPIRATORY CARE

Defendants

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WASHINGTON LEGAL FOUNDATION; CONSUMER ADVOCATES FOR SMOKE-FREE ALTERNATIVES; MICHAEL SIEGEL

Amici Supporting Appellant

STATE OF MARYLAND; MARYLAND ASSOCIATION OF COUNTY HEALTH OFFICERS

Amici Supporting Appellee

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J U D G M E N T

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In accordance with the decision of this court, the judgment of the district court is affirmed in part. The appeal is dismissed in part.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK