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Court Ruling Against FDA's Graphic Cigarette Warnings is Wrong on the Law and Must Be Appealed

Statement of American Academy of Pediatrics, American Cancer Society, American Cancer Society Cancer Action Network, American Heart Association, American Lung Association, Campaign for Tobacco-Free Kids and Truth Initiative

WASHINGTON, D.C. – [Today's decision by a federal judge](#) to block implementation of graphic cigarette warnings ordered by the Food and Drug Administration (FDA) is wrong on the law, inconsistent with decades of precedent and harms public health. We urge the Justice Department to appeal this decision, and we are confident that the FDA's warnings will ultimately be upheld by a higher court. Today's ruling was issued by U.S. District Judge J. Campbell Barker of the U.S. District Court for the Eastern District of Texas in a lawsuit filed by R.J. Reynolds and other tobacco interests.

Courts have long held that mandatory health warnings conveying truthful information about the risks of dangerous products do not violate the First Amendment. According to the court's ruling, however, the First Amendment permits only ineffective health warnings that do little to educate the public about the serious health risks of smoking.

The graphic cigarette warnings were mandated by a large, bipartisan majority of Congress as part of the 2009 Family Smoking Prevention and Tobacco Control Act. The graphic warnings developed by the FDA are a dramatic improvement over the current text-only warnings, which have become stale and unnoticed since they were last updated in 1984. They are supported by [extensive scientific evidence](#) showing that graphic warnings are most effective at increasing public understanding of the dire health consequences of smoking. And they would help the United States to catch up to the [120-plus countries](#) that have already adopted this best-practice strategy to reduce tobacco use and save lives. Prior to 2009, when Congress passed the Tobacco Control Act, only 18 countries required graphic warnings, showing just how far behind the rest of the world the U.S. has fallen over the past 13 years.

The Tobacco Control Act required graphic warning labels covering the top half of the front and back of cigarette packs and 20% of cigarette advertising.

This lawsuit by R.J. Reynolds and a similar lawsuit filed by Philip Morris USA in the U.S. District Court for the District of Columbia show that these tobacco companies are being hypocritical when they claim they want to reduce the enormous harm caused by cigarettes. Far from helping to create a smoke-free future, these companies are doing everything they can to perpetuate cigarette sales and fight policies like graphic warnings and an end to menthol cigarette sales that would actually reduce cigarette use. That hypocrisy was also on full display recently in California where Reynolds and Philip Morris spent over \$20 million in a failed referendum to overturn the state's law ending the sale of flavored tobacco

products, including menthol cigarettes. California voters upheld the law by a 64% to 36% margin. But rather than accept the voters' verdict, [Reynolds has already filed suit](#) to block the California law and announced the introduction of a new line of cigarettes to circumvent the law and keep menthol smokers addicted.