



NCTOH: The effect of the DC Circuit Court of Appeals decision on tobacco control efforts

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This is a series of special reports from the National Conference on Tobacco or Health in Phoenix, AZ.

Sharon Eubanks, the former U.S. government attorney that prosecuted the tobacco companies in the case the U.S. Government v Phillip Morris et al. spoke about the recent U.S. Court of Appeals upholding a ruling that the tobacco companies are guilty of :

- 50 years of fraud and misrepresentation.
- conspiring to increase profits by committing fraudulent acts.
- committed a pattern of mail and wire fraud.
- Illegal business activities.
- Made misleading statements and distorted science in an attempt to mislead the public.
- Unethical practices that are so ingrained they are unlikely to change and their bad acts are likely to continue into the future.

The case began in 1999 when former President Clinton asked Janet Reno to go after the tobacco companies to recoup Medicare costs of treating sick smokers. In 2006, Judge Gladys Kessler issued a 1,742 page opinion against the tobacco companies. They appealed. In May, 2009, the U.S. District Court of Appeals upheld Kessler's decision.

The fraud and misrepresentation of the tobacco companies started in 1953, when they knew that smoking caused lung cancer and they conspired together in a join public relations effort to protect their profits by entering into a "gentleman's agreement". The strategy was to counter growing evidence of health concerns with with fraud, deception and denial of any health concerns when they did have actual knowledge of smoking caused diseases. The internal documents of the tobacco companies showed that:

- They sought to create doubt about the health hazards of smoking because they knew this would influence customers.
- They denied that cigarettes were addictive.
- They manipulated nicotine to addict new smokers and to make it difficult for smokers to quit.
- They suppressed research and destroyed documents.
- They aggressively targeted children since they would not fully understand the health hazards and addictive nature of tobacco and are easily induced to start an addiction that may last a lifetime
- They knew their product was unreasonably and unnecessarily dangerous to lifelong customers.

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