



November 30, 2012

COURT OVERTURNS MICHIGAN'S ATTEMPT TO REGULATE INTERSTATE COMMERCE

(American Beverage Association v. Snyder)

U.S. Court of Appeals for the Sixth Circuit

Yesterday, the U.S. Court of Appeals for the Sixth Circuit reversed a lower court decision upholding a controversial Michigan law that, on its face, purports to regulate the permissible markings on beverage containers in all 50 states. The decision was a victory for WLF, which filed a brief in support of the American Beverage Association—a trade association of manufacturers, marketers, distributors, and bottlers of America's most popular nonalcoholic beverages—arguing that the Constitution does not permit Michigan to extraterritorially regulate the national marketplace for beverages.

The appeals court in *American Beverage Association v. Snyder* agreed with WLF that the Commerce Clause, by removing the power to regulate interstate commerce from the states and giving that power exclusively to Congress, precluded the Michigan legislature's attempt to control conduct beyond the State of Michigan.

“The Sixth Circuit's decision is welcome news for interstate bottlers and beverage manufacturers across the nation,” said WLF Senior Litigation Counsel Cory Andrews after reading the court's opinion. “The Supreme Court has always imposed a more meaningful limit on state restrictions of interstate commerce than the district court recognized below,” Andrews said, “and the Michigan legislature will now have to go back to the drawing board.”

The case arose from a challenge to a recent amendment to the Michigan Beverage Container Deposit Law, which requires interstate beverage manufacturers to produce, distribute, and sell covered beverages in containers that are uniquely branded for sale in Michigan, but criminalizes the distribution or sale of such Michigan-only containers in any other state lacking a “substantially similar” law. Many national beverage manufacturers objected to the law, which sought to force interstate beverage manufacturers to incur great expense by completely overhauling their manufacturing, distribution, and sales operations but imposed no such financial burden on solely intrastate beverage manufacturers in Michigan.

When America's most popular beverage manufacturers mounted a legal challenge to the law, the U.S. district court for the Western District of Michigan upheld the law

under the Commerce Clause. In its brief urging the appeals court to reverse the district court's decision, WLF argued that, because the Commerce Clause operates to prevent the kind of economic Balkanization that results from even a single state's discrimination against interstate commerce, Michigan's de facto discrimination against out-of-state beverage manufacturers offended deeply rooted Commerce Clause principles.

As detailed in WLF's brief, Michigan's scheme afforded Michigan-only beverage manufacturers a unique advantage in that they are wholly insulated from the kind of economically burdensome production process that Michigan imposes on interstate beverage manufactures. This differential treatment ensured that out-of-state beverage manufacturers must either create an entirely separate Michigan infrastructure for producing, warehousing, transporting, and distributing their goods, or else suffer severely reduced access to Michigan consumers. WLF cited Supreme Court precedents establishing that a state statute that directly regulates interstate commerce extraterritorially is virtually per se invalid.

WLF is a public interest law and policy center with supporters in all 50 States. WLF devotes a substantial portion of its resources to ensuring that individual states do not improperly interfere with the flow of interstate commerce.

* * *

For further information, contact WLF Senior Litigation Counsel Cory Andrews, (202) 588-0302. A copy of WLF's brief is posted on its web site, www.wlf.org.