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In WLF Victory, Federal Court Enjoins Texas’s Controversial Food–Labeling Law (*American Beverage Association v. Paxton*)

“This decision confirms that the First Amendment precludes States from forcing companies to convey confusing and misleading messages about FDA-approved food ingredients.”

— Cory Andrews, WLF General Counsel & Vice President of Litigation

WASHINGTON, DC—Yesterday the U.S. District Court for the Western District of Texas preliminarily enjoined enforcement of a Texas law compelling misleading warning labels on food products. The decision was a victory for WLF, whose amicus brief argued that the mandate violates the First Amendment by requiring companies to disseminate inaccurate and uninformative government-scripted speech. WLF joined the U.S. Chamber of Commerce on the brief.

The case arises from Texas Senate Bill 25, which requires manufacturers and retailers to display a warning on products containing any of 44 specified ingredients purportedly not recommended by authorities in Australia, Canada, the European Union, or the United Kingdom. Even though most of these ingredients are lawful in the United States and deemed safe by the Food and Drug Administration, the blanket warning identifies neither the ingredient at issue nor the reasons for the purported foreign disapproval. Four trade groups sued the state, asserting, among other things, that the law unconstitutionally compels speech and should be enjoined.

Ruling exclusively on First Amendment grounds, the district court held that the statute is content based and so likely subject to strict scrutiny. Yet Texas never argued that the statute satisfies strict scrutiny. Citing briefs by amici, the Court agreed that *Zauderer*’s relaxed scrutiny does not apply because the law is controversial and the compelled speech at issue is not in the narrow category of speech covered by *Zauderer*. And if intermediate scrutiny applies, the statute fails because it is not narrowly tailored.

Celebrating its 49th year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

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