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PhRMA v. Alameda

9th Circuit Court of Appeals Rules for Alameda

On Tuesday Sept. 30th, the Ninth Circuit Court of Appeals rejected a challenge by three pharmaceutical associations to Alameda County's Safe Drug Disposal Ordinance, the first in the nation to require drug manufacturers to collect and dispose of unwanted prescription drugs.

The pharmaceutical industry sued Alameda County following the 5-0 vote to adopt the ordinance in 2012, alleging that it violated the Commerce Clause by shifting local costs to out-of-state producers and interfering with interstate commerce.

The Court rejected that argument in the 3-0 ruling, with Judge N. Randy Smith writing: "The ordinance neither discriminates against nor directly regulates interstate commerce [. . .] because it applies to all manufacturers that make their drugs available in Alameda County - without respect to the geographic location of the manufacturer."

Arthur Shartsis, representing Alameda County, noted that the drug manufacturers could recoup the estimated costs of complying with the ordinance by raising prices within

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Alameda County 1 cent for every $10 in sales.

The ordinance is based on regulations from British Columbia, Canada mandating producers fund and operate the take-back program, but also allows them to design it unlike government "command and control" rules. The program has successfully operated since 1999 in British Columbia with 90% of pharmacies voluntarily hosting medicine collections. For more information on the Canadian program, visit the Health Product Stewardship Association's website.

More press and information:

San Francisco Chronicle article; U.S. 9th Circuit Court of Appeals Hearing video; CPSC statement; Wall Street Journal article; Alameda Press Release; Alameda Press Advisory.

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