

CAMPAIGN FOR JUSTICE ON TOBACCO FRAUD

CAMPAGNE POUR OBTENIR JUSTICE FACE À LA FRAUDE DU TABAC

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HEALTH AND LEGAL EXPERTS PRESS THE PROVINCES TO MAKE HEALTH OBJECTIVES NECESSARY OUTCOMES OF MASSIVE LAWSUITS AGAINST BIG TOBACCO

Toronto – More than 130 prominent Canadians, including the heads of health agencies and professions, deans of public health schools and professors of law, released a letter today that urges provincial and territorial governments to make public health remedies essential objectives of their health care cost recovery lawsuits against the tobacco industry.

“All provinces have passed legislation to facilitate suing Canadian tobacco manufacturers and their international parents,” said Garfield Mahood, president of the Campaign for Justice on Tobacco Fraud. “Governments want to recover the costs of treating tobacco-related diseases allegedly caused by over five decades of industry conspiracy and fraud. They allege that the companies involved lied about tobacco risks, including addiction, second-hand smoke and targeting kids. If proven in court, the wrongful behaviour at the heart of the lawsuits would constitute the largest fraud in the history of Canadian business and, unquestionably, the most destructive fraud in the history of Canadian public health. In response to the conduct of this rogue industry, we are asking our attorneys general and ministers of health, ‘Will you put public health at the top of your list of litigation objectives?’ ”.

“Nine provinces have filed cost recovery lawsuits with claims to date exceeding \$110 billion,” said Richard Schabas, former Ontario chief medical officer of health. “But the financial losses, although massive, are dwarfed by the devastation caused to public health by the industry’s predatory behaviour.”

“Based on the 2014 report of the United States Surgeon General,” said Mary Jane Ashley, professor emerita of public health at the University of Toronto, “we estimate that cigarette manufacturers have caused or contributed to two million premature deaths in Canada over the five decades from 1964 to 2014.”

“These lawsuits should be about much more than money,” said Rob Cunningham, lawyer and senior policy analyst with the Canadian Cancer Society. “We applaud these lawsuits but want the attorneys general and health ministers involved to put justice and public health at the top of their lists of desired outcomes for their litigation.”

“Health agencies have a real interest in this litigation,” said Fernand Turcotte, professor emeritus of public health at Université Laval. “Thirty percent of cancer deaths, 30% of heart disease deaths and over 80% of chronic obstructive lung deaths are caused by the products of Big Tobacco. And health agencies have spent millions over the years of the alleged fraud servicing the needs of tobacco victims. These agencies have good reason to demand major reforms of the industry and other health outcomes from these lawsuits.”

“The Campaign for Justice on Tobacco Fraud was formed in reaction to the irresponsible sweetheart smuggling settlements that the federal government negotiated with Big Tobacco in 2008 and 2010,” said Robert Solomon, distinguished professor of law at Western University. “In those settlements, health remedies to deal with the illness caused by the smuggling appear not to have been given any consideration.

“Unlike American tobacco settlements where the manufacturers were taken through trial,” added Professor Solomon, “the criminal investigations and civil lawsuits in Canada produced settlements for pennies on the dollars claimed, no disclosure of industry documents and no real incentive for the manufacturers to change their behaviour. And the tobacco executives charged criminally were given get-out-of-jail free cards. The Campaign for Justice on Tobacco Fraud was formed to prevent a repetition of such settlements where health care cost recovery lawsuits are concerned.”

“We want the provinces and territories to establish a public trust to combat the epidemic created by the industry,” said Michael Perley, executive director of the Ontario Campaign for Action on Tobacco. “We want a trust at arms-length from government, funded by the proceeds of court awards or settlements, a public interest trust able to implement the hard-hitting campaigns that governments often will not initiate on their own.”

“We believe that the public disclosure of tobacco industry documents should be a priority objective of Canada’s attorneys general, a remedy ignored in the smuggling settlements,” said Flory Doucas, co-director of the Quebec Coalition for Tobacco Control. “The public disclosure in the United States of 40 million pages of tobacco industry documents is considered by health interests around the world to be one of the great achievements in tobacco control of the last century. Governments must make public disclosure a non-negotiable demand.”

“We have ongoing concerns about the amount of resources that governments have allocated toward defeating ‘the wall of flesh,’ the sheer number of leading private sector litigators that the industry is massing against the provinces,” said Mahood. “And we have been told repeatedly by experienced litigators that governments will never achieve real success in these lawsuits unless they are as aggressive as their American counterparts, unless individual attorneys general champion this litigation and take the industry to trial.”

“A key industry public relations strategy designed to weaken public support for the lawsuits has been to accuse governments of being ‘senior partners’ with the manufacturers over the half a century of the alleged fraud,” said Robert Evans, Killam professor of economics at the University of British Columbia. “Governments may not have introduced strong enough policies to address the tobacco epidemic. They may even have been negligent. But they were not ‘partners’ with the industry in fraud and conspiracy.”

The Campaign for Justice on Tobacco Fraud is a health advocacy group incorporated under the *Canada Not-for-profit Incorporations Act*.

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