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Smokers' Rights Group Files Suit to Stop NYC Electronic Cigarette (E-Cig) Ban

New York, NY (MMD Newswire) March 25, 2014 — Today, NYC Citizens Lobbying Against Smoker Harassment (C.L.A.S.H.) and advocate Russ Wishtart, through their attorneys Joshpe Law Group, filed a lawsuit against New York City and the New York City Council seeking to overturn the public ban on electronic cigarettes (e-cigs).

The bill, which bans e-cigs wherever conventional smoking has been banned under the City's Smoke-Free Air Act (SFAA), was approved by the Council on December 19, 2013 and signed into law by outgoing Mayor Michael Bloomberg on December 30th. It is being challenged under the New York State Constitution's and New York City Charter's "One Subject Rule," which restricts legislation topics to only one subject, which must be expressed in the bill's title.

With Bloomberg's urging, the Council's justifications for the addition of e-cigs to the SFAA included that e-cigs have not been approved by the FDA and their use may increase the social acceptability of smoking.

According to all documentation, the sole purpose of the SFAA, since its inception and in all of its amendments prior to the e-cig ban, has been the protection of the public from involuntary second-hand smoke exposure. Not a single justification for the e-cig ban has anything to do with smoking around others or protecting citizens or workers from exposure to secondhand smoke.

Additionally, indications are that the Council backed Bloomberg's ban via the SFAA because councilmembers were unable or unwilling to enact a freestanding e-cig ban without the cover of tying e-cig use to the convenient, but utterly tangential, "bogeyman" of tobacco smoke exposure. Otherwise, the sale of a ban to their constituents that targets personal behavior through regulation of a product is fraught with potential backlash.

Audrey Silk, founder of C.L.A.S.H. says, "It has always been our position that the proponents' ulterior motive for smoking bans was never about secondhand smoke protection except as a manufactured scare tactic to turn the mob against an unpopular minority and easily using this tool to control the smoker, not the smoke, by systematically eliminating opportunities to light up. Protesting all along that they were up to no such thing, the inclusion of harmless vapor now proves it."

E-cig advocate Russell Wishtart adds, "Bloomberg's Health Commissioner Thomas Farley's own testimony during hearings affirmed that there is no scientific evidence whatsoever that concludes that the vapor in e-cigs is harmful to bystanders, demonstrating it is in direct conflict with the purpose of the SFAA. In fact, the addition of a new definition for e-cigs to the law rather than expanding the legal definition of smoking concedes as much."

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The suit was filed in New York County Supreme Court.

Related Material

Legal Complaint: http://nycclash.com/E-CIG_Lawsuit_NYC-SummonsAndComplaint.pdf

NYC Citizens Lobbying Against Smoker Harassment (C.L.A.S.H.) is a grassroots organization established in 2000 dedicated to advancing and protecting the interests of adults who choose to smoke cigarettes or enjoy other forms of tobacco or use electronic cigarettes.

Joshpe Law Group LLP is a full-service Manhattan-based corporate and litigation law firm.

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