

United in the Fight, Divided in Victory; Will We Really Be Successful Against Big Tobacco?

The most important public health litigation in our nation's history was filed in Mississippi on May 23, 1994. The case against the tobacco industry sought justice in three areas. We wanted the tobacco companies, rather than the taxpayers, to pay the medical costs of treating the thousands who die of tobacco-related disease. We wanted the "whole truth" to be told about the tobacco industry and their products, and most important, we wanted them to stop hooking our children with their fancy advertising.

It is now July 1999. Five years later, one state's case grew to 42 states and eventually all 50 states and the territories completed settlements with the tobacco industry. Billions of dollars will be paid out over the years to come, millions of documents revealing the truth about the industry have been disgorged, and campaigns have begun to decrease the number of children using tobacco products. How can we make sure this

hard-earned victory really makes a difference in the public health of America?

If everyone tells the truth, not many people believed that a case against the tobacco industry filed in "little ole" Mississippi had much of a chance. In retrospect, the only reason we won is that a highly determined and dedicated team of lawyers, doctors, public health advocates, and public officials coalesced around a mission to improve the public health of our country and refused to give in or give up. In the heat of the battle, we were united. The stakes were high and the chances of success were slim. Never before have the medical community and the legal community joined forces in an effort so important. In my own case, I will never forget how important the public health and medical community was to me personally, politically, and professionally. When my governor and the tobacco companies teamed up and filed a lawsuit to stop our case, the American College of Chest Physicians came to the rescue by filing a brief in my defense. Who would have thought of it? Doctors defending lawyers for filing lawsuits! It had a tremendous impact, and together we won.

I remember Dr. Lonnie Bristow, then President of the American Medical Association, defending our efforts, working tirelessly with attorneys general, and helping us encourage others to join in. The incredible support of Matt Myers and the campaign for Tobacco Free Kids kept our focus on the real goal—protecting our children. The American Cancer Society, the American Heart Association, and so many other public health organizations supported us all along the way. Doctors from Ochsner Medical Institutions, the Mayo Clinic, and other institutions agreed to testify for free. When we unbelievably got to real negotiations with the industry, we received

input from public health groups all over America. The settlement, announced June 20, 1997, included every public health initiative, advertisement restriction, and prevention tool that had been thought of or suggested by public health experts. It was truly a plan that would have dramatically reduced the number of kids smoking, but then it went to Congress.

Like a jump ball in basketball, everyone had to slap at it. It grew and grew, and finally imploded from its own weight. A divided public health community, a White House under fire, a bit of overreaching by some, who knows the cause? An opportunity lost; at least that is what it felt like in June 1998 when they took away the last vote on the McCain bill. So close, but so far away.

The states continued to march on in their fight, winning some battles and losing others. Finally, a state-only settlement was achieved in 1998: \$206 billion for the states to spend, but unfortunately many public health concessions and advertising restrictions were left on the Senate floor. How could we have worked so closely during the toughest and darkest days and become so divided when victory was near? Most of those who have been in this fight for decades realize how very close we were to really producing a positive result.

Our challenge now is to make sure we accomplish what we set out to do. Improving the public health by reducing the number of children who start smoking can only be achieved by the same kind of unified effort that we enjoyed during the battle. The medical community and public health associations must continue to work hand in hand with the attorneys general, governors, and legislators to ensure that the moneys recovered in the state settlements are spent on public health initiatives. We must all encourage and support the federal government in its pursuit of litigation against big tobacco. We should press Congress to pass legislation that makes sure the states' recovery is not diluted by federal interests, and we should never rest until we get Congress to approve FDA jurisdiction over nicotine and retrieve the advertising and marketing restrictions we had achieved on June 20, 1997. We can only do this if we can re-engage the synergy and cooperative spirit we had during the fight. The battle is not over!