

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

AMERICAN ACADEMY OF PEDIATRICS, et al.,

Plaintiffs,

v.

FOOD AND DRUG ADMINISTRATION, et al.,

Defendants.

Civil Action No. 8:18-cv-883-PWG

DECLARATION OF JULIA T. WOESSNER

1. I, Julia T. Woessner, make this declaration pursuant to 28 U.S.C. § 1746.
2. I am currently on the Board of Directors and serve as the National Policy Director for The Consumer Advocates for Smoke-free Alternatives Association (“CASAA”). CASAA is a 501(c)(4) non-profit with an all-volunteer board and a grassroots membership of more than 200,000 vapers from all walks of life. I joined the Board in 2012 and started as National Policy Director in 2017. In addition, I have served in various other leadership capacities with CASAA, including as its Legislative Director (2013 – 2014), as President of the Board (2014 – 2018), and as Executive Director (2014 – 2017). I also serve on the governing board of the International Network of Nicotine Consumer Organizations (“INNCO”), a non-profit organized under Swiss law, and I serve as the Secretary for that organization. Currently, INNCO has 38 member consumer organizations from all over the world (CASAA being one of the founding members). I obtained both my undergraduate degree and law degree from Duke University.

3. As part of my work with CASAA, I am in continuous contact with our membership to determine what issues are most important to them. I am an administrator of a Facebook group of approximately 23,000 of our members, and I review and participate in discussions which include, among other things, what factors our members believe are most important to them in terms of helping smokers replace their smoking habit with vaping. Moreover, I attend vape conventions open to consumers and regularly communicate with our members regarding advocacy-related issues.

4. In addition, from 2013 to 2018, I administered the CASAA Testimonials Project where our members share their success stories, often discussing in great detail the types of devices and specific brands and flavors of e-liquids that they find most satisfying. To date, we have collected over 11,000 testimonials. Our members consistently tell us that they value access to a diverse range of effective and enjoyable products at a reasonable cost, and they reject what they feel is overly restrictive or burdensome government regulation of these potentially life-saving products.

5. In 2015, CASAA conducted an extensive member survey of various vaping issues, including the role that flavors play in transitioning from cigarettes to vaper products (“CASAA’s Survey”). CASAA’s Survey can be found at <https://antithrlies.com/2016/01/04/casaa-ecig-survey-results/>.

6. CASAA’s members are concerned that, without a compliance period that allows manufacturers enough time to file pre-market applications with the U.S. Food and Drug Administration, they will not have access to the wide variety of flavors and brands of e-liquids they rely on to switch away from their smoking habits to vaping and to remain smoke-free.

7. Flavor variety is important to consumers, not only from a sheer product enjoyment standpoint, but also in connection with successfully making and maintaining a complete transition away from cigarettes.

8. First, there is no doubt that flavors play a crucial role in product enjoyment and that different people find different flavor profiles more enjoyable.

9. Some of our members report enjoying tart flavors, while others prefer sweet. Some prefer menthol or mint (either alone or in conjunction with one or more flavors). Some prefer rather simple flavors, such as strawberry, while others prefer a combined flavor profile, such as maple and peach. Still others prefer tobacco flavors, and many who enjoy tobacco flavors find an additional characterizing flavor (such as vanilla, for example) enhances their vaping experience.

10. Second, in addition to the differences in individual flavor preferences, we find that a significant number of our members use more than one flavor or brand of e-liquid, sometimes rotating flavors throughout the day, others using the same flavor for a week or two at a time and then switching to another flavor.

11. In fact, 28% of the respondents to CASAA's Survey noted that they use more than twenty different e-liquid flavors in a typical month.

12. While some rotate flavors because they enjoy the variety, others do so for a very practical reason: many vapers report that after a certain length of time, they become desensitized to a particular flavor such that it becomes rather bland and unappealing. Continuously rotating flavors eliminates this problem.

13. Third, while flavor variety is important in terms of consumer satisfaction, variety is also very important in connection with successfully making and maintaining a complete transition away from cigarette smoking.

14. While many new vapers crave a tobacco flavor, we find those making a complete transition from smoking to vaping most often report that finding a non-tobacco flavor was instrumental in helping them distance themselves from their smoking habit, and sampling a variety of different flavors actually served to make vaping more enjoyable than smoking.

15. In CASAA's Survey, 87% of the respondents (17,186) indicated that they completely replaced their smoking habit after starting to use vapor products. Of those 17,186 respondents, 72% credited interesting flavors with helping them to make a complete transition away from smoking cigarettes.

16. Moreover, the sheer enjoyment factor of vaping is what makes it such an incredibly compelling and successful alternative to smoking.

17. Reducing the enjoyment factor/product satisfaction reduces the effectiveness of vapor devices in helping people quit smoking. Given that there is no dispute that vapor devices are a far, far less hazardous alternative than combustible cigarettes, anything the government does (intentionally or unintentionally) to reduce product variety works against the interests of consumers as well as genuine public health interests.

18. In the final analysis, if consumers do not have access to these products, there is a substantial risk that they will return to their old smoking habits or feel forced to rely on do-it-yourself ("DIY") activities or an unregulated black market for e-liquids and devices. This is not merely a theoretical concern. In CASAA's Survey, respondents were asked how they would respond if the only e-liquids that could be sold were tobacco and menthol flavored. The vast

majority of respondents – 89% – indicated that they would continue to use their preferred flavors by purchasing from overseas, purchasing on the domestic black market, and/or by making or flavoring e-liquid themselves. We note that a ban on interesting flavors (i.e., flavors other than tobacco and menthol) prompted almost the same outraged reaction from CASAA Survey respondents as did a ban on all vapor products. When asked what they would do in response to a total ban on all vapor products – the entire product category – 93% of the CASAA Survey respondents indicated they would continue to use the products they enjoy by either purchasing from overseas or a domestic black market, or by engaging in DIY activities.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 10, 2018.



Julia T. Woessner