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CAA VICTORY – PREMIUM CIGAR REGULATIONS VACATED

Judge: Agency “Ignored” Relevant Data and “Inexplicably” Made “No Data” Finding

WASHINGTON, D.C. Aug. 9 – In a sweeping decision in U.S. District Court in DC, Judge Amit P. Mehta ruled in favor of the Cigar Association of America (CAA) and the cigar industry in their lawsuit against the U.S. Food and Drug Administration (FDA), holding that premium cigars will no longer be subject to regulation by the FDA.

The case, *Cigar Association of America, et al v. U.S. Food and Drug Administration et al*, is a resounding win for the cigar industry, as the court concluded that FDA ignored scientific evidence presented by industry during the rulemaking process when it decided to include premium cigars in its *Proposed Rule Deeming Tobacco Products to Be Subject to the Family Smoking Prevention and Tobacco Control Act (FDCA)*.

In support of its assertion that premium cigars should not be subject to the Proposed Deeming Rule, CAA provided a comment from an FDA-funded study that indicated cigar smokers do not have higher “all-cause” mortality rates than non-smokers.

Significantly, Judge Mehta determined “*The agency then ignored relevant data in the record that commentors had highlighted and inexplicably made a ‘no data’ finding.*” This led Judge Mehta to conclude “*The significance of the agency’s error supports vacatur.*” The court’s ruling effectively requires FDA to restart the rulemaking process should the Agency decide to continue its efforts to regulate premium cigars.

CAA President David Ozgo said, “This is a big victory for cigar enthusiasts across America. The evidence clearly showed the public would receive little benefit resulting from FDA regulation of premium cigars. Moreover, regulation would add burdensome costs to all premium cigar manufacturers which cannot be justified.”

The lawsuit was first filed in July 2016 in response to the FDA “deeming” cigars subject to regulation under the FDCA. The decision means that, should FDA wish to regulate premium cigars it will have to start at the beginning of the regulatory process.

CAA is a national trade association representing manufacturers, distributors, importers, suppliers and all channels of retailers in the cigar industry and traces its roots back to the 1890s.

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