

# SAN FRANCISCO TO ABA: SUGAR-DISEASE LINK IS CLEAR

City attorneys offer strong opposition to American Beverage Association motion for a preliminary injunction seeking to strike down an ordinance requiring warnings on sugary-drink ads.

**BY ANDRÉA MARIA CECIL**

The debate over whether sugar-sweetened beverages cause a host of metabolic derangements is akin to the one on global warming, said Harold Goldstein, executive director of the [California Center for Public Health Advocacy](#).

“You might be able to find somebody that says global warming isn’t man made ... but they probably are the only person,” he joked.

When it comes to linking sugary drinks to health concerns, scientists are no longer choosing the word “contribute,” Goldstein noted, but “cause.”

“The best scientists in the country are now clear that sugary beverages cause diabetes, obesity, tooth decay, heart disease. It’s now [met the scientific criteria](#) to show that it’s a direct cause.”

Attorneys for the City and County of San Francisco [know as much](#).

On Feb. 23, they filed a legal opposition in the U.S. District Court for the Northern District of California to the American Beverage Association (ABA) motion for a preliminary injunction on [a San Francisco ordinance](#). The municipal measure requires health-warning labels on ads for sugary drinks. The label reads, “WARNING: Drinking beverages with added sugar(s) contributes to obesity, diabetes, and tooth decay. This is a message from the City and County of San Francisco.” The ABA—the trade group that represents the country’s nonalcoholic beverage industry—on July 24 [filed suit](#) against San Francisco. Joining the suit are the California Retailers Association and the California State Outdoor Advertising Association. They claim the ordinance violates the U.S. Constitution’s First Amendment, which guarantees multiple freedoms, including speech.

In its opposition, the city flatly refuted the association’s claim that the ordinance defies the First Amendment.

“Because this simple warning is factual and accurate, and because it serves San Francisco’s very strong interest in promoting the health of its citizens, sugary beverage advertisers have no First Amendment right not to display it on their commercial speech, and cannot show they are likely to succeed on the merits of their claim,” reads the city’s filing.

The document also took to task [Richard A. Kahn](#), whose “expert report” was included in the ABA’s Jan. 12 motion.

In his submitted report, Kahn emphasized, “There is considerable debate over whether sugar-sweetened beverages uniquely contribute to obesity or diabetes.”

However, Kahn has “little” original or clinical experience in the field of sugar-sweetened beverages, obesity or diabetes, the city noted. And his opinions are at odds with the American Diabetes Association—

Kahn’s former employer—which has endorsed a mandatory warning that drinking sugary beverages contributes to obesity, diabetes and tooth decay.

Kahn is the former chief scientific and medical officer of the American Diabetes Association. He might be best known as the man who defended the now-defunct Smart Choices program on [ABC News](#) in September 2009. The processed-food industry underwrote and funded the initiative that gave a nutritional seal of approval to many sugar-laced products, including Kellogg’s Froot Loops.

Although there have been similar legal challenges to other government public-health initiatives, this is the first involving sugar-sweetened beverages, said Julie Ralston Aoki, staff attorney with the Minnesota-based [Public Health Law Center](#). The center was among more than 20 organizations that filed an unsolicited brief in support of San Francisco’s health-warning requirement.

“The industry plaintiffs are trying to kind of muddy the waters in terms of how you interpret scientific evidence,” Aoki said of the ABA and its lawsuit cohorts. “When you know how scientific research is done and how it should be used, the city and county are on very solid (legal) ground.”

Plus, lawmakers have proposed [similar measures](#) to warn consumers of added sugar in beverages in Baltimore, Maryland; [California](#); Hawaii; New York and Washington state.

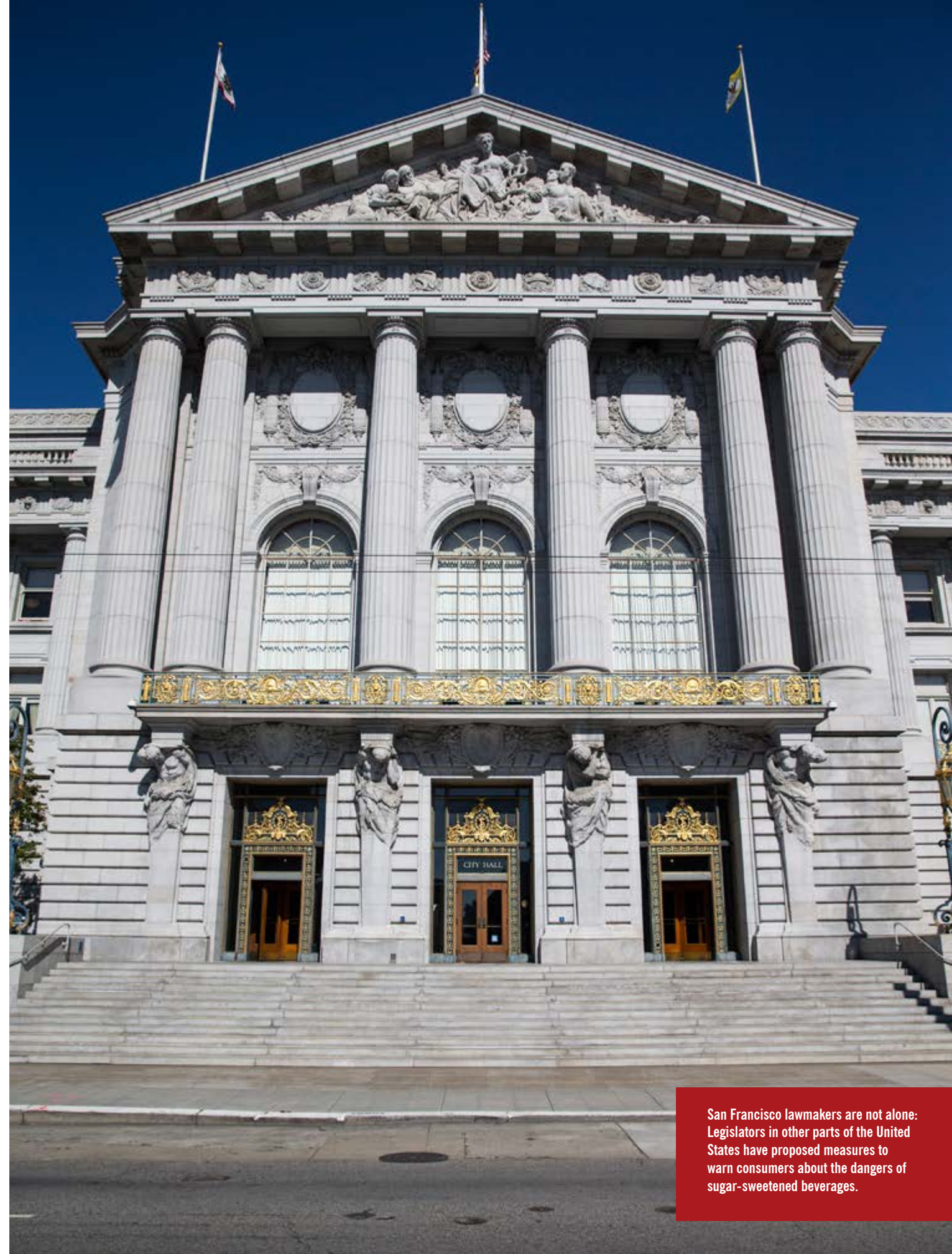
“It’s beginning,” Goldstein said.

The ABA et al. have until mid-March to reply to the city’s opposition filing.

“In sum, San Francisco’s warning is constitutional ... whether all [calories](#) are the same as Dr. Kahn would have it, or whether liquid sugar poses special risks,” the city’s attorneys wrote in their opposition filing. “Under either view, there is no serious dispute that the warning—as opposed to Plaintiffs’ straw men versions of the warning—is accurate. And there can be no question that it is valuable information for consumers to have when they decide what drink to buy.”

## About the Author

Andréa Maria Cecil is assistant managing editor and head writer of the [CrossFit Journal](#).



San Francisco lawmakers are not alone: Legislators in other parts of the United States have proposed measures to warn consumers about the dangers of sugar-sweetened beverages.