

# ALUMNI IN THE SPOTLIGHT: DAVI

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[Brazil](#)

*Davi Bressler, an alumnus of the [McCabe Centre for Law & Cancer](#) (the Knowledge Hub on Legal Challenges)'s International Legal Training Program, is part of the legal team leading Brazil's landmark lawsuit against the tobacco industry to recoup funds spent on public healthcare for tobacco-related illnesses.*

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It's hard to put a price on the negative impact of tobacco.

The World Health Organization (WHO) estimates that tobacco use costs the global economy US 1.4 trillion annually, yet that figure cannot capture the full human impact of a product that kills roughly eight million people every year.

But for Brazilian Prosecutor Davi Bressler, determining exactly what tobacco costs his country's government is key to a landmark lawsuit against the tobacco industry.

In May 2019, Brazil filed a lawsuit against British American Tobacco, Philip Morris International and their Brazilian subsidiaries to recoup the money spent over the preceding five years on public healthcare for tobacco-related illnesses.

"The idea is to seek reimbursements for what our population has put into the system," says Davi.

“It’s a very complex lawsuit, and something we have never done before.”

## **An innovative legal approach**

The [lawsuit has been applauded](#) by the WHO and the Secretariat of the WHO Framework Convention on Tobacco Control (FCTC). Inspired by lawsuits against the tobacco industry in Canada and the United States, Brazil’s case is breaking new ground in several ways.

For one, the scale is unprecedented. Brazil has one of the largest universal public health systems in the world, offering free coverage to more than 200 million people across a land mass nearly the size of Europe. Brazil has also made the unique choice to include the tobacco companies’ global headquarters as defendants in the lawsuit – in addition to local subsidiaries. The aim, Davi says, is to “follow the money” and show that tobacco companies work as transnational enterprises, with the parent companies having control of the national subsidiaries.

But perhaps the most ground-breaking aspect of the lawsuit is the epidemiological approach Brazil is taking to determine the amount of damages. Through epidemiological analysis of 26 tobacco-related illnesses, the Attorney General’s Office is trying to recover the public health costs from tobacco companies for the proportion of these illnesses in Brazil that can be directly linked to tobacco.

“The cost of treating that percentage of illness is what we are charging the industry – no more, no less,” Davi says, noting that the full amount of damages has not yet been determined.

Davi says the legal approach using epidemiology is a new concept in Brazil, and the team he is a part of had to “start from scratch” when developing the lawsuit. It has been an enormous undertaking, and he has learned more about epidemiology than he could ever have anticipated when he joined the Attorney General’s Office in 2013.

He says the epidemiological and legal precedents the Attorney General’s Office is developing through this case could hopefully achieve a different result in the Brazilian judicial system, which has denied many individual smokers’ claims against the tobacco industry because they could not prove their illness was caused by tobacco consumption.

“We are using collective action, and we are representing the whole population,” Davi says. “In our point of view, our case is not only a question of law, it’s really a question of epidemiology. The data is there.”

## **Support from around the world**

Though the lawsuit was filed in 2019, work on the case began years earlier. The International Affairs Department of the Attorney General’s Office had a firm goal to file a lawsuit against the tobacco industry for several years, and the lawsuit was in its planning stages in 2016 when Davi was offered

the chance to attend the McCabe Centre's [three-week intensive legal training course](#). Though he didn't have a background in public health, he spent two months studying, hopped on the long flight to Melbourne, and was introduced to the world of tobacco control and the WHO FCTC.

Davi says the McCabe Centre training gave him a broad comprehension of the WHO FCTC, which provides means for people and governments to tackle the burdens of tobacco, including issues related to liability. He was also delighted to meet and learn from people from different backgrounds like public health and policymaking.

"The exchange of information was wonderful. I haven't seen that in any other place in the world, and the group still keeps in touch to this day," he says.

The McCabe Centre training also taught Davi about the amount of work ahead of him. After returning to Brazil, he and his colleagues went into "shell mode" for nearly three years as they quietly gathered a team, consulted with experts, and prepared the case. The work involved dozens of lawyers from the Attorney General's Office.

### **How the case is progressing**

A year-and-a-half after the case was filed, plenty of work remains. The case is moving slowly, with the defendants contesting every step of the legal process.

In March 2020, the tobacco companies presented their initial defence. Davi says the defendants have used a wide range of arguments, including that Brazil does not have jurisdiction to enforce its laws against the global headquarters, that causation between tobacco use and the 26 illnesses can't be proven, and that it's actually the smokers who are costing the Brazilian government money, since they should know the health risks of tobacco use.

"They argue everything," he says. "They are fighting us with all they've got, but their arguments had been predicted."

In the coming weeks, Davi expects the court will move to the next phases, with parties presenting more arguments and evidence. He anticipates that proceedings will continue for many months, and that the case will ultimately end up in higher courts. Such a high-profile lawsuit is also likely to have implications far beyond Brazil, and Davi is keen to share what he and his colleagues are learning.

Working on the lawsuit has connected Davi with many people in the global tobacco control community, and he is impressed with their willingness to help. He keeps in contact with staff at McCabe Centre – which acts as a [WHO FCTC Knowledge Hub on legal challenges](#) – and with his fellow 2016 alumni, and says their diverse knowledge and experience have been vital to the case.

For other countries seeking to follow in Brazil's footsteps, he recommends tapping into the expertise of this community.

“Seek help, seek knowledge, and you may discover things that you never imagined,” he says. “And if you’re in doubt whether your legal system would allow something similar, talk to us.”

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