Key Documents in Chronological Order

1. **January 19, 1990 FHWA memo** affirming FHWA's interpretation of Federal law as implemented
2. **July 17, 1996 FHWA memo** restating agency's position that nearly all state agreements prohibit
3. **August 7, 2007 email** **from Kentucky Division of FHWA** requesting that Headquarters follow
4. **September 24, 2007 email from FHWA counsel Bob Black** to other FHWA staff describing his
5. **September 25, 2007 FHWA guidance memorandum** that gives states the green light to allow d
6. **February 23, 2010 Scenic America petition for rulemaking** asking FHWA to adopt a moratoriu
7. **April 8, 2010 letter from FHWA Administrator Mendez** acknowledging receipt of petition and s
8. **November 17, 2011 the Arizona Court of Appeals ruled** that digital billboards on state and fed
9. **December 19, 2011 email from Bob Black to Scenic America counsel** apologizing for lack of
10. **September 21, 2012 note** in Rutgers Law Review argues that digital billboards violate the spirit
11. **January 23, 2013 lawsuit by Scenic America** asking the Court to overturn the 2007 FHWA gu
12. **October 23, 2013 ruling by Judge Boasberg** that Scenic America has standing to sue FHWA

On January 23, 2013, Scenic America filed a lawsuit in the U.S. District Court for the District of Columbia seeking to overturn a controversial Federal Highway Administration (FHWA) ruling. The ruling reversed the agency's long-held position that barred intermittently changing commercial digital billboards. The lawsuit alleges that FHWA has wrongfully allowed commercial digital billboards to proliferate along federal highways nationwide.

Lawsuit summary as of July 1, 2014

Click here to read a summary of the lawsuit by Ryke Longest, Duke University Clinical Professor of Law

Media Coverage of Lawsuit:

Syndicated columnist Neal Peirce says it is time to stop the spread of digital billboards.

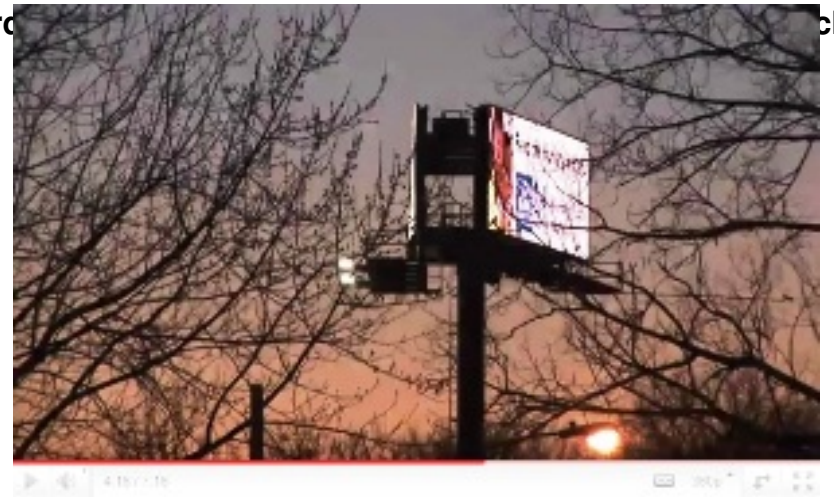
USA Today says glaring digital billboards "visually scream for attention."

Others:
Campaigns & Elections
MediaPost
AdWeek
CrossCut
ABA Journal
The Daily Record
Phoenix Business Journal

The lawsuit, filed on behalf of Scenic America and its members by Georgetown Law Center's Institute for Public Representation, asserts that FHWA's 2007 guidance violates the lighting standards established under the customary use provisions of Lady Bird Johnson's Highway Beautification Act.

"For over five years we have pleaded with FHWA to do the right thing and revoke the memorandum," said Mary Tracy, president of Scenic America. "In every instance, they have turned a blind eye to the standards established by the Highway Beautification Act. These standards were meant to protect all citizens from the trespassing glow of digital billboards flashing commercial advertisements along high-speed roadways. Because the agency has ignored the law, today we are asking the Court to tell FHWA to follow the law."

How a digital billboard ck to watch.



Digital billboards, brightly-lit signs with commercial messages that change intermittently every few seconds, appeared along federal highways around 2005. State transportation officials, charged with controlling outdoor advertising and following FHWA's longstanding prohibition on intermittent commercial message lighting, turned to FHWA for additional guidance. Under immense pressure from a powerful billboard lobby to approve the signs, FHWA reversed its long-held position.

Since FHWA reversed its position, the number of digital billboards has risen to nearly 4,000 (nearly a 400% increase) around the country. Most of these billboards operate along the federal highways regulated under the HBA. Drivers are being distracted, adjacent properties are being devalued, homes are being invaded by lights shining through windows, and many individuals and scenic groups have spent thousands of dollars and thousands more hours trying to stop these invasive signs.

"We receive distress calls from people all over the country who find these TVs-on-a-stick lining our highways to be distracting eyesores, and in some instances the signs even shine into the windows of nearby homes," said Tracy. "These billboards devalue private property, distract drivers, tarnish the beauty of our natural and built landscapes and negatively impact the quality

of life for many people. FHWA has been totally unresponsive, and we can no longer stand by and watch this agency ignore Lady Bird's Highway Beautification Act."

Representing Scenic America are Thomas Gremillion, Staff Attorney, and Hope Babcock, Director, of the Institute for Public Representation, Georgetown University Law Center.