

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

R.J. REYNOLDS TOBACCO COMPANY, *et al.*,

Plaintiffs,

v.

UNITED STATES FOOD AND DRUG
ADMINISTRATION, *et al.*,

*Defendants.*¹

Civil Action No. 6:20-cv-00176

**DEFENDANTS' NOTICE CONCERNING
EXTENSION OF POSTPONEMENT OF RULE'S EFFECTIVE DATE**

Plaintiffs' motions for summary judgment and for a preliminary injunction (ECF No. 34) and Defendants' cross-motion for summary judgment and motion to dismiss (ECF Nos. 36, 37) were fully briefed as of September 11, 2020. The Court held hearings on the motions on September 9, 2020, and December 11, 2020. ECF Nos. 63, 81. However, the Court has postponed the effective date of the Food and Drug Administration's cigarette health warnings rule nine times, the last eight of which have been over Defendants' continuing objection and four of which have been sua sponte. ECF Nos. 80, 89, 91, 92, 93, 94, 96, 100. As a result, the rule's effective date has been postponed by over two years even though no Court has concluded that the rule is unlawful or should be preliminarily enjoined.

Defendants respectfully notify the Court that if the rule's effective date is further postponed without a ruling on the parties' pending dispositive motions, Defendants may seek appellate relief.

¹ Pursuant to Federal Rule of Civil Procedure 25(d), Robert M. Califf, M.D. (in his official capacity as the Commissioner of Food and Drugs) and Xavier Becerra (in his official capacity as the Secretary of Health and Human Services) are automatically substituted as Defendants for their predecessors.

Dated: August 31, 2022

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

BRIT FEATHERSTON
United States Attorney

ERIC B. BECKENHAUER
Assistant Branch Director

/s/ Garrett Coyle
GARRETT COYLE (California 308177)
Trial Attorney
United States Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, NW
Washington, DC 20005
Tel: (202) 616-8016
Fax: (202) 616-8470
Email: garrett.coyle@usdoj.gov