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**MONTANA TWENTY-FIRST JUDICIAL DISTRICT COURT
RAVALLI COUNTY**

MONTANA SMOKEFREE ASSOCIATION,
INC.; FREEDOM VAPES, LLC., LIBERTY
SMOKE, INC.; AND UBLAZE VAPOR, LLC

Petitioners,

vs.

MONTANA DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES;
SHEILA HOGAN, in her capacity as the
Director of the Montana Department of Public
Health and Human Services and STEPHEN C.
BULLOCK, in his official capacity as the
Governor of the State of Montana,

Respondents.

Cause No. DV-19-388
Dept. No. 2

**MONTANA DEPARTMENT OF
PUBLIC HEALTH AND HUMAN
SERVICES, DIRECTOR SHEILA
HOGAN, and GOVERNOR STEPHEN
C. BULLOCK'S NOTICE OF INTENT
TO ENFORCE EMERGENCY RULES**

On October 8, 2019, the State of Montana Department of Public Health and Human Services issued Emergency Rules to restrict—temporarily—the sale of flavored e-cigarette products in Montana. On October 18, 2019, the Court issued a Temporary Restraining Order and Order to Show Cause which temporarily suspended enforcement of the emergency rules. The Court set a hearing on Petitioners’ Application for a Preliminary Injunction. The hearing was held October 30 and November 1, 2019. At the close of the hearing, the Court appropriately noted that Montana law requires that review of emergency rules “takes precedence over all other matters except older matters of the same character.” Mont. Code Ann. § 2-4-303.

The October 18 Temporary Restraining Order expired after ten days. Mont. Code Ann. § 27-19-316(4) (by operation of law, TRO expires after ten days). Though the State has thus far declined to enforce the Emergency Rules pending resolution by the Court, the imminent threats to public health and safety that precipitated the rules are ongoing and demand a public health response.

It is important for the parties to obtain the Court’s ruling on this critical public health issue. The Court’s findings are essential for meaningful review in the event of appeal. In light of the public health threat, the State respectfully provides notice to the Court and to Petitioners that it intends to begin enforcement of the Emergency Rules effective at 1 p.m. on Wednesday, December 18, 2019.

DATED this 13th day of December 2019.

OFFICE OF GOVERNOR STEVE BULLOCK



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CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true copy of the foregoing document was served upon the following individuals by the means designated below:

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DATED this 13th day of December 2019.

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