



261ST DISTRICT COURT

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August 23, 2021

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Re: Cause No. D-1-GN-20-004053; *Crown Distributing LLC, et al. v. Texas Department of State Health Services, et al.*; In the 345th District Court of Travis County, Texas

Dear Counsel:

I have considered the Defendant's Motion for Summary Judgment, Plaintiffs' Emergency Motion for Leave to Amend Pleadings, Defendants' Motion for the Court to Reform its Temporary Injunction or, Alternatively, Rule on Plaintiffs' Permanent Injunction, responses, replies, the pleadings, evidence, and arguments of counsel and hereby rule as follows:

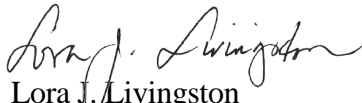
- Plaintiffs' Emergency Motion for Leave to Amend Pleadings is granted. The Amended Pleading operates no surprise or prejudice to the Defendants. Plaintiffs raised the rule invalidity because the statutes' unconstitutionality in their Amended Petition: "For the reasons stated above, the rule is invalid and cannot be applied to Wild Hempettes insofar as the Legislative Ban violates Tex. Const. art. XI, § 19." Pl.'s Am. Verified Pet. at ¶ 75. This position echoes the position of

the Plaintiffs since early on in the case and throughout the trial on the merits. Despite this knowledge, the Plaintiffs' Response to Motion for Summary Judgment, and my ruling on the temporary injunction, Defendants took no action to clarify the claims and filed no special exceptions. While the Amended Petition gives fair notice to Defendants,¹ the Second Amended Petition conforms to the evidence presented and the arguments made. Defendants cannot claim surprise or prejudice to the Amendment that the Plaintiffs seek. Therefore, the Motion is granted.

- Defendants' Motion for Summary Judgment is denied.
- Every issue raised by the pleadings was tried and argued at the trial on the merits. Because the Second Amended Petition conforms to the trial, I render judgment in this matter without additional evidence or hearing. Judgment is granted in favor of the Plaintiffs:
 - Texas Health and Safety Code Section 443.204(4) and Texas Agriculture Code Section 122.301(b) violate the Texas Constitution.
 - 25 Texas Administrative Code Section 300.104 is invalid in its entirety.
 - A permanent injunction is granted enjoining Defendants from enforcing Texas Health and Safety Code Section 443.204(4) and Texas Agriculture Code Section 122.301(b) and 25 Texas Administrative Code Section 300.104.
- Defendants' Motion for the Court to Reform its Temporary Injunction or, Alternatively, Rule on Plaintiffs' Permanent Injunction is denied as moot.

Now that you have my ruling, please prepare a final judgment, and submit it for signature at your earliest convenience. If you have any questions, please contact my Staff Attorney, Brent McCabe.

Sincerely,


Lora J. Livingston
Judge, 261st District Court

cc: Ms. Velva L. Price, Travis County District Clerk

¹ While the Third Court of Appeals concluded the Original Petition failed to give fair notice, the same cannot be said of the Amended Petition, filed February 2, 2021, especially in the context of the case as the whole and the consistent position of Plaintiffs in this case.