IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

|  |  |
| --- | --- |
| Moose Jooce, et al.,  Plaintiffs,  v.  Food and Drug Administration, et al.,  Defendants. | No. 1:18-cv-00203-CRC |
| Rave Salon, Inc. d/b/a Joosie Vapes,  Plaintiff,  v.  Food and Drug Administration, et al.,  Defendants. | No. 1:18-cv-01615-CRC |
| Jen Hoban d/b/a Masterpiece Vapors, et al.,  Plaintiffs,  v.  Food and Drug Administration, et al.,  Defendants. | No. 1:19-cv-00372-CRC |

**Declaration of Kimberly Manor**

I, **Kimberly Manor**, declare:

1. The facts set forth in this declaration are based on my knowledge and, if called as a witness, I can competently testify to their truthfulness under oath. As to those matters that reflect a matter of opinion, they reflect my personal opinion and judgment upon the matter.
2. I founded Moose Jooce, a company that operates three vape shops in Michigan, after my husband died of lung cancer. Catering to middle-aged and older smokers struggling to quit cigarettes, Moose Jooce sells vaping equipment and manufactures and sells its own line of vaping liquids.
3. On May 10, 2016, the Food and Drug Administration (FDA) issued a rule deeming a variety of non-tobacco products—principally, vaping products—to be tobacco products for purposes of the Family Smoking Prevention and Tobacco Control Act.
4. Moose Jooce makes vaping e-liquids and, as such, is a “manufacturer” under the FDA’s deeming rule.
5. To continue producing vaping e-liquids (and other vaping products), Moose Jooce must satisfy the deeming rule’s registration, listing, and pre-market review requirements for all products that were not commercially marketed as of February 15, 2007.
6. None of Moose Jooce’s e-liquids were marketed in the United States as of February 15, 2007.
7. To receive the FDA’s permission to sell its e-liquids, Moose Jooce must submit a separate premarket tobacco application (PMTA) for each flavor-and-nicotine-strength combination it makes. The FDA estimates that one PMTA will cost between around $117,000 and $446,000.
8. Moose Jooce currently sells 720 separate products, including 220 different e-liquids.
9. According to the FDA’s estimates, it will cost Moose Jooce between $84,240,000 and $335,520,000 to submit PMTAs for each of its 720 products. To submit PMTAs for just the 220 e-liquids, Moose Jooce would have to pay between $25,740,000 and $98,120,000.
10. Moose Jooce cannot afford to pay for these applications.

\* \* \*

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this \_\_\_\_\_ day of February, 2020, at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Kimberly Manor

**Certificate of Service**

I hereby certify that on February \_\_\_, 2020, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing. Based on the records currently on file, the Clerk of the Court will transmit a Notice of Electronic Filing to the following ECF registrants:

xxxxxxxxxxx

xxxxxxxxxxx

Jonathan Wood