

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

**21+ TOBACCO AND VAPOR
RETAIL ASSOCIATION OF
OREGON**, a domestic non-profit
corporation; **NO MOKE DADDY,
LLC**, a domestic limited liability
company, doing business as
DIVISION VAPOR; and **PAUL
BATES**, an Individual,

Plaintiff,

v.

MULNOMAH COUNTY; a political
subdivision of the State of Oregon,

Defendant.

Case No. 23CV03801

ORDER ON PLAINTIFFS' MOTION FOR
STAY OF JUDGMENT PENDING
APPEAL

This case came on for hearing on December 13, 2023, on Plaintiffs' Motion for Stay of Judgment Pending Appeal ("Motion"). Plaintiffs appeared through their attorney, Tony L. Aiello, Jr. Defendant appeared through Assistant County Attorney Andrew Weiner.

Plaintiffs have filed in the Oregon Court of Appeals an appeal of the Court's September 19, 2023, Judgment of General Dismissal in this case. That Judgment followed the Court's September 1, 2023, Order granting Defendant's Motion To Dismiss Plaintiffs' Complaint.

Plaintiffs now move the Court to stay its judgment, and to enjoin the enforcement of Multnomah County Ordinance 1311 (which Plaintiffs Complaint argued was invalid).

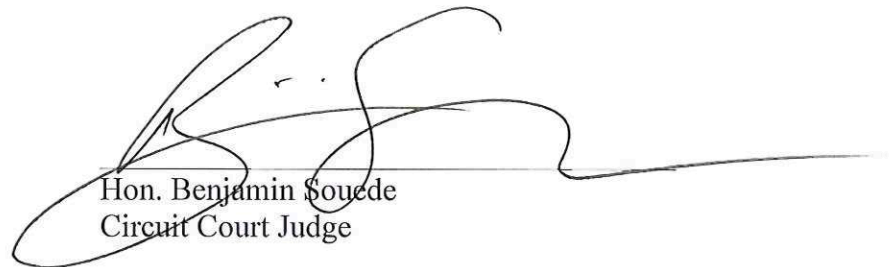
The Court has considered Plaintiffs' Motion pursuant to the factors provided in ORS 19.350. With respect to those factors, the Court finds as follows:

1. Plaintiffs' appeal is taken in good faith and not for the purpose of delay.
2. Substantial financial harm would befall Plaintiffs were their requested stay denied.
3. Plaintiffs have an extremely low likelihood of prevailing on appeal.
4. There is very little support in fact or law for Plaintiffs' appeal.

In view of the above factors, Plaintiffs' Motion For Stay of Judgment Pending Appeal is DENIED.

IT IS SO ORDERED.

Dated this 13th day of December 2023



Hon. Benjamin Souede
Circuit Court Judge