

No. 03-13-00753-CV

**In the Court of Appeals
for the Third Judicial District
Austin, Texas**

FILED IN
3rd COURT OF APPEALS
AUSTIN, TEXAS
1/23/2014 7:56:53 PM
JEFFREY D. KYLE
Clerk

SUSAN COMBS, in her official capacity as Texas Comptroller; and GREG ABBOTT,
in his official capacity as Texas Attorney General,
Appellants,

v.

TEXAS SMALL TOBACCO COALITION AND GLOBAL TOBACCO, INC.,
Appellees.

On Appeal from the
345th District Court, Travis County, Texas

**UNOPPOSED FIRST MOTION TO EXTEND TIME
TO FILE APPELLANTS' BRIEF**

TO THE HONORABLE THIRD COURT OF APPEALS:

Pursuant to Texas Rules of Appellate Procedure 38.6(d) and 10.5(b), Appellant
Texas Department of Health moves to extend the time to file its Appellants' Brief.

I.

Appellant's Brief is currently due on January 29, 2014. TEX. R. APP. P.
38.6(a); *see also* TEX. R. APP. P. 4.1(a). Appellants seek a 20-day extension, which

would create a new due date of February 18, 2014. No prior extension has been granted and the appellees do not oppose this motion.

II.

The extension is necessary because I was not counsel in the trial court and need additional time to review the record below as well as to thoroughly research and analyze issues on appeal. In addition, I had preexisting oral arguments in the Fifth Circuit on January 7, 2014, and January 22, 2014, in *Planned Parenthood v. Abbott* and *Department of Texas VFW v. Texas Lottery Commission*. This extension is not sought to cause delay, and it will prejudice no party. The extension is sought in the interest of justice and to ensure that counsel have adequate time to prepare a brief that fully and effectively addresses all issues and will appropriately aid the Court in its resolution of this appeal.

III.

For these reasons, the appellants respectfully request that the Court grant a 20-day extension of time to file their appellants' brief, creating a new due date of February 18, 2014.

Respectfully submitted,

GREG ABBOTT
Attorney General of Texas

DANIEL T. HODGE
First Assistant Attorney General

JONATHAN F. MITCHELL
Solicitor General

/s/ Arthur C. D'Andrea
ARTHUR C. D'Andrea
Assistant Solicitor General
State Bar No. 24050471

OFFICE OF THE ATTORNEY GENERAL
P.O. Box 12548 (MC 059)
Austin, Texas 78711-2548
[Tel.] (512) 936-2868
[Fax] (512) 469-3180
arthur.dandrea@texasattorneygeneral.gov

COUNSEL FOR APPELLANTS

CERTIFICATE OF CONFERENCE

This is to certify that counsel for Appellees has been contacted and does not oppose this motion.

/s/ Arthur C. D'Andrea
Arthur C. D'Andrea

CERTIFICATE OF SERVICE

I certify that on January 23, 2014, a copy of this Motion to Extend Time to File Appellants' Brief was served by File&ServeXpress on counsel of record, addressed as follows:

Craig T. Enoch
Melissa A. Lorber
ENOCH KEVER PLLC
600 Congress, Suite 2800
Austin, Texas 78701
cenoch@enochkever.com
mlorber@enochkever.com

Counsel for Appellees

/s/ Arthur C. D'Andrea
Arthur C. D'Andrea