

United States Court of Appeals
for the Fifth Circuit

No. 19-60921

BIG TIME VAPES, INCORPORATED;
UNITED STATES VAPING ASSOCIATION, INCORPORATED,
Plaintiffs—Appellants,

versus

FOOD & DRUG ADMINISTRATION; STEPHEN M. HAHN,
COMMISSIONER OF FOOD AND DRUGS; ALEX M. AZAR, II,
SECRETARY, U.S. DEPARTMENT OF HEALTH AND HUMAN
SERVICES, IN HIS OFFICIAL CAPACITY,
Defendants—Appellees.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 1:19-CV-531

ON PETITION FOR REHEARING EN BANC

(Opinion June 25, 2020, 963 F.3d 436)

Before SMITH, HIGGINSON, and ENGELHARDT, *Circuit Judges*.

PER CURIAM:

Treating the petition for rehearing en banc as a petition for panel rehearing, the petition for panel rehearing is DENIED. No judge in regular active service having requested that the court be polled on rehearing en banc (FEDERAL RULE OF APPELLATE PROCEDURE 35 and 5TH CIRCUIT RULE 35), the petition for rehearing en banc is DENIED.

ENTERED FOR THE COURT

/s/ Jerry E. Smith
United States Circuit Judge

United States Court of Appeals
FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

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600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

August 25, 2020

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 19-60921 Big Time Vapes, Incorporated, et al v. FDA, et
al
USDC No. 1:19-CV-531

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk

Mary Stewart

By: _____

Mary C. Stewart, Deputy Clerk
504-310-7694

Mr. Jerad Wayne Najvar
Ms. Lindsey E. Powell
Mr. Austin M.B. Whatley