

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

R.J. REYNOLDS TOBACCO	)	
COMPANY, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 1:11-cv-1482 (RJL)
	)	
UNITED STATES FOOD AND	)	
DRUG ADMINISTRATION, et al.,	)	
	)	
Defendants.	)	

**DEFENDANTS' MOTION, AND MEMORANDUM IN SUPPORT, TO INCORPORATE  
SUMMARY JUDGMENT BRIEF INTO OPPOSITION TO MOTION FOR  
PRELIMINARY INJUNCTION**

Defendants hereby move the Court to consider, in the Court's review of plaintiffs' pending preliminary injunction motion, the arguments presented in defendants' summary judgment memorandum, filed October 21, 2011, as well as those presented in defendants' opposition to the preliminary injunction motion. In seeking their preliminary injunction, plaintiffs incorporated by reference the arguments that they made in the memorandum filed in support of their summary judgment motion. *See* Plaintiffs' PI Mem. at 11-13. While plaintiffs had well over sixty days after the Final Rule to prepare their summary judgment and preliminary injunction briefs, the government's preliminary injunction opposition was prepared in twenty-one days. To the extent that the Court intends to issue separate rulings on the preliminary injunction motion and cross-motions for summary judgment, defendants respectfully ask that the Court consider, in connection with the preliminary injunction motion, the arguments presented in defendants' summary judgment memorandum as well as those presented in defendants' opposition to the preliminary injunction motion. The undersigned attorney for defendants, Drake

Cutini, has contacted attorneys for plaintiffs, and plaintiffs' attorney Warren Postman stated that plaintiffs do not agree to this motion, and will likely file an opposition. A proposed order is attached.

Respectfully submitted,

Dated: October 25, 2011

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