

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THE AVE MARIA FOUNDATION, et al.,

Plaintiffs,

Case No. 13-cv-15198

v.

HONORABLE STEPHEN J. MURPHY, III

KATHLEEN SEBELIUS, et al.,

Defendants.

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**ORDER GRANTING MOTIONS FOR LEAVE TO FILE
EXCESS PAGES (document nos. 2, 8 & 10) AND FOR A TEMPORARY
RESTRAINING ORDER (document no. 3), AND NOTICE OF HEARING**

Plaintiffs are five nonprofit organizations seeking to invalidate a federal statutory requirement, 42 U.S.C. § 300gg-13(a)(4), and its implementing regulations (“HRSA Mandate”) that require employer-sponsored health insurance plans to include coverage for contraceptives, abortifacients, and sterilization at no cost to the plan beneficiaries. All five organizations object to the HRSA Mandate for religious reasons, and none of the organizations qualify for a straight-up exemption. The organizations could avoid the requirement through an accommodation for religious objectors, but to qualify, Plaintiffs would be required to execute a self-certification that obliges their insurer to provide the objectionable services at no cost to the plan beneficiaries. This route too, Plaintiffs say, would require them to act contrary to their religious convictions.

Because failure to comply with the HRSA Mandate or execute a self-certification by January 1, 2014 could subject Plaintiffs to financial penalties or other harms, Plaintiffs move for a temporary restraining order on a Religious Freedom Restoration Act, 42 U.S.C. §§ 2000bb, *et seq.*, claim. The urgency of the request necessitates deciding the motion on the briefs. See E.D. Mich. LR 7.1(f)(2); E.D. Mich. LR 65.1.

Having reviewed the parties' submissions and other materials, the Court determines that the equities tip in favor of issuing a temporary restraining order to preserve the status quo until a hearing can be held.¹ Plaintiffs have shown that regulations at issue will likely substantially burden Plaintiffs' sincere exercise of religious beliefs, thereby depriving them of statutory rights and causing irreparable harm, for the reasons identified in *Legatus v. Sebelius*, No. 12-12061, 2013 WL 6768607 (E.D. Mich. Dec. 20, 2013), and *Roman Catholic Archdiocese of New York v. Sebelius*, No. 12-2542, 2013 WL 6579764 (E.D.N.Y. Dec. 16, 2013). By contrast, the government and public will suffer comparatively little harm if a temporary restraining order is granted.

¹ The Court will hold a hearing January 8, 2014 on whether to convert the temporary restraining order to a preliminary injunction. Given the extensive briefing already submitted by the parties, the Court considers the matter fully briefed. Any supplemental submissions must be by leave of the Court, and any request for such leave should be made by January 3, 2014.

ORDER

WHEREFORE, it is hereby **ORDERED** that Plaintiffs' motion for a temporary restraining order (document no. 3) is **GRANTED**.

IT IS FURTHER ORDERED that Defendants, their agents, officers, and employees are **ENJOINED** from enforcing against Plaintiffs any requirement that they self-certify as a religious objector, pursuant to 45 C.F.R. § 147.131(b), or provide contraception, sterilization, abortifacients, or related education and counseling in their employee health plan, pursuant to 42 U.S.C. § 300gg-13(a)(4) and accompanying regulations. The injunction will expire in fourteen (14) days from its entry.

IT IS FURTHER ORDERED that all parties' motions for leave to file excess pages (document nos. 2, 8, & 10) are **GRANTED**.

IT IS FURTHER ORDERED that the parties **APPEAR** for hearing on whether to convert the temporary restraining order to a preliminary injunction on Wednesday, January 8, 2014, at 10:00am.

s/Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: December 31, 2013

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on December 31, 2013, by electronic and/or ordinary mail.

s/Carol Cohron
Case Manager