

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge John L. Kane

Civil Action No. **12-cv-1123-JLK**

WILLIAM NEWLAND;
PAUL NEWLAND;
JAMES NEWLAND;
CHRISTINE KETTERHAGEN;
ANDREW NEWLAND; and
HERCULES INDUSTRIES, INC., a Colorado corporation,

Plaintiffs,

v.

KATHLEEN SEBELIUS, in her official capacity as Secretary of the United States Department of Health and Human Services;
HILDA SOLIS, in her official capacity as Secretary of the United States Department of Labor;
TIMOTHY GEITHNER, in his official capacity as Secretary of the United States Department of the Treasury;
UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES;
UNITED STATES DEPARTMENT OF LABOR; and
UNITED STATES DEPARTMENT OF THE TREASURY,

Defendants.

ORDER

Kane, J.

On July 27, 2012, I granted Plaintiffs' Motion for Preliminary Injunction, enjoining, under the Religious Freedom and Restoration Act (RFRA), the government's enforcement of the Patient Protection and Affordable Care Act's preventive care coverage mandate against them until such time as Plaintiffs' various legal challenges to the mandate could be carefully and fully vetted. I did not, in my July 27, 2012, Order, reach a decision on the merits of Plaintiffs' RFRA, or any other, claim for relief.

The government appealed the July 27 Order and that matter remains pending before the

Tenth Circuit Court of Appeals. In the interim, briefing on Defendants' Motion to Dismiss Plaintiffs' First Amended Complaint has proceeded and is now complete. Plaintiffs now move to stay all proceedings, including ruling on the Motion to Dismiss, pending resolution, by the Tenth Circuit, of the government's RFRA preliminary injunction appeal. The government objects to any delay in the consideration of their Motion to Dismiss, agreeing only to stay the setting of further case management or briefing deadlines until 30 days after a ruling on that Motion.

Having considered the arguments for and against the stays suggested, I agree the most prudent course is to await the Tenth Circuit's ruling on the preliminary injunction appeal rather than cloud the issues pending there with rulings on Defendants' Motion to Dismiss. Accordingly, Plaintiffs' Opposed Motion to Stay Proceedings Pending Appeal (Doc. 51) is **GRANTED** and this case is **STAYED** until the Tenth Circuit issues its ruling or until further order of this Court. Defendants' Opposed Motion to Continue the October 26, 2012 Case Management [Scheduling] Plan Deadline until after the Court Rules on the Motion to Dismiss (Doc. 52) is **DENIED** as **MOOT**.

Dated: October 26, 2012.

/s/ John L. Kane
SENIOR U.S. DISTRICT JUDGE