

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JAMES L. SHERLEY, et al.,)

Plaintiffs,)

v.)

**KATHLEEN SEBELIUS, in her official
capacity as Secretary of the Department of
Health and Human Services, et al.,**)

Defendants.)

Case No. 1:09-cv-01575-RCL

MOTION TO DISMISS

Defendants respectfully move to dismiss the plaintiffs' Complaint pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). In support of this Motion, defendants respectfully refer the Court to the accompanying Memorandum of Law. A proposed order is also attached.

Dated: September 14, 2009

Respectfully submitted,

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Assistant Attorney General

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Acting United States Attorney

/s/ Eric Womack
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CERTIFICATE OF SERVICE

I hereby certify that on September 14, 2009, I caused a true and correct copy of the foregoing Motion and the attached Memorandum in Support, Proposed Order, and accompanying Exhibit to be served on Plaintiffs' counsel electronically by means of the Court's ECF system.

 /s/ Eric Womack
ERIC R. WOMACK