

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF CONNECTICUT

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BARTH BRACY and ABBIE BRACY,))
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))
<i>Plaintiffs,</i>))
v.))
)	Civil Action No. 3:14-cv-00593-VLB
SYLVIA BURWELL, ¹ , in her official))
capacity as Secretary of the United))
States Department of Health and))
Human Services; THOMAS PEREZ,))
in his official capacity as Secretary)	MOTION FOR PRELIMINARY
of the United States Department of)	INJUNCTION
Labor; JACOB J. LEW, in his official))
capacity as Secretary of the United))
States Department of the Treasury;))
KATHERINE ARCHULETA, in her))
official capacity as Director of the))
Office of Personnel Management;)	June 12, 2014
UNITED STATES DEPARTMENT OF)	Oral Argument Requested
HEALTH AND HUMAN SERVICES;))
UNITED STATES DEPARTMENT OF))
LABOR; UNITED STATES))
DEPARTMENT OF THE TREASURY;))
OFFICE OF PERSONNEL))
MANAGEMENT; MEMBERS OF THE))
BOARD OF DIRECTORS OF))
ACCESS HEALTH CONNECTICUT, in))
their official capacities; and))
ACCESS HEALTH CONNECTICUT,))
))
<i>Defendants.</i>))
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¹ Pursuant to Fed. R. Civ. P. 25(d), Sylvia Burwell, now Secretary of the Department of Health and Human Services, is substituted for Kathleen Sebelius.

Oral Argument Requested

MOTION FOR PRELIMINARY INJUNCTION

Pursuant to Fed. R. Civ. P. 65 and L. Cv. R. 7, Plaintiffs Barth Bracy and Abbie Bracy, (“the Bracys”), by and through counsel, hereby move this Court to enter a preliminary injunction, and state as follows:

1. The Bracys request a preliminary injunction against Defendants, ordering them not to apply or enforce against the Bracys 45 C.F.R. § 156.280(e)(ii)(3) and 42 U.S.C. § 18023(b)(1)(B)(i)(II) (“the abortion surcharge mandate”), which require the Bracys to facilitate, contrary to their sincerely held religious beliefs, the provision of and/or payment for elective abortions; 42 U.S.C. 5000A(b)(1) (“the individual mandate”), which imposes fines on the Bracys because they are unable to obtain a plan through Access Health Connecticut without violating their religious beliefs; and from otherwise enforcing the Affordable Care Act (“ACA”) and Access Health Connecticut so as to withhold benefits from and punish the Bracys because of their religious beliefs against enabling and paying for others’ elective abortions.

2. In support of this motion, the Bracys submit an accompanying memorandum of law.

3. The Bracys respectfully request a decision on this motion prior to October 1, 2014. Their health insurance plan will be terminated due to requirements of the ACA on November 30, 2014. The enrollment period for Access Health Connecticut begins on November 15, 2014 with those plans in effect as of January 1, 2015. Thus, a decision by October 1, 2014 would permit Defendants to implement any order from this Court and would permit the Bracys

the time to make necessary health insurance decisions before the termination of their current plan.

4. If injunctive relief is not afforded in advance of November 30, 2014 the Bracys will be forced to choose between (a) following their consciences, foregoing health insurance in violation of their religious convictions, and suffering crippling financial penalties; and (b) directly paying for the destruction of human life in transgression of their sincerely held religious beliefs. Foregoing health insurance in order to avoid directly funding elective abortions in violation of their religious beliefs would have serious health and financial consequences for the Bracy family.

5. As set forth in the accompanying memorandum of law, the Bracys are very likely to succeed on the merits of their claims under the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb *et seq.* (RFRA), the Connecticut Religious Freedom Restoration Act, Conn. Gen. Stat. § 52-571(b), and the First Amendment. Requiring the Bracys to pay a separate fee used exclusively for others' elective abortions as a condition of obtaining a health insurance plan and the subsidies for such a plan to which the ACA entitles them and imposing substantial fines on them if they refuse to purchase such a plan substantially burdens their ability to exercise their religious beliefs in the sanctity, dignity, and value of human life. No compelling interest justifies these burdens on the Bracys' religious exercise, and other, less restrictive means of pursuing any legitimate interests are available to Defendants.

4. Without injunctive relief, the Bracys and the public interest will be irreparably harmed. Defendants will suffer no measurable injury if the injunction is granted, and thus the balancing of harms plainly favors the Bracys.

5. As factual support for this motion, the Bracys rest upon the Verified Complaint.

Respectfully submitted this 12th day of June, 2014.

Attorneys for Plaintiffs:

/s/ M. Casey Mattox

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CERTIFICATE OF SERVICE

I hereby certify that on June 12, 2014, I electronically filed the foregoing motion and the memorandum in support of this motion with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record. I have also served the foregoing by First Class U.S. Mail on the following:

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***Non-defendants. Copies served by pursuant to Fed. R. Civ. P. 4(i)**

s/ M. Casey Mattox