

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:13-cv-00285-WYD

STEPHEN W. BRISCOE;
CONTINUUM HEALTH PARTNERSHIPS, INC;
CONTINUUM HEALTH MANAGEMENT, LLC; and
MOUNTAIN STATES HEALTH PROPERTISE, LLC,

Plaintiffs,

v.

KATHLEEN SEBELIUS, in her official capacity as Secretary of the United States Department of Health and Human Services;
THOMAS E. PEREZ, in his official capacity as Secretary of the United States Department of Labor;
JACOB LEW, 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;
UNITED STATES DEPARTMENT OF THE TREASURY;

Defendants.

UNOPPOSED MOTION TO STAY DISTRICT COURT PROCEEDINGS

Defendants hereby move to stay proceedings in the above-captioned case. Courts of appeals in the Tenth, Third, and Sixth circuits have issued decisions in cases involving legal issues that are substantially similar to those presented in this case; and, in each case, the non-prevailing party has filed a petition for writ of certiorari seeking Supreme Court review. *See Hobby Lobby Stores, Inc. v. Sebelius*, 723 F.3d 1114 (10th Cir. 2013) (en banc), *petition for cert. pending*, No. 13-354 (filed Sept. 19, 2013); *Conestoga Wood Specialties Corp. v. Secretary of HHS*, 724 F.3d 377 (3d Cir. 2013), *petition for cert. pending*, No. 13-356 (filed Sept. 19, 2013); *Autocam Corp. v. Sebelius*, 2013 WL 5182544 (6th Cir. Sept. 17, 2013), *petition for cert. pending*, No. 13-482 (filed Oct. 15, 2013). If the Supreme Court grants one or more of these

petitions, its decision on the merits of the appeal will no doubt affect future proceedings in this case.

Additionally, the district court in *Hobby Lobby* has stayed district court proceedings in that case “pending the Supreme Court’s disposition of the government’s petition for a writ of certiorari [in *Hobby Lobby*], and if the petition is granted, the Supreme Court’s decision.” *Hobby Lobby v. Sebelius*, No. CIV-12-1000-HE, ECF No. 84 (W.D. Okla. Sept. 24, 2013). And, in another case in this District that is substantially similar to the instant case, after affirming the district court’s grant of a preliminary injunction to plaintiffs, the Tenth Circuit remanded to the district court with instructions to “abate further proceedings until the Supreme Court completes its consideration of the *Hobby Lobby* case.” *Newland v. Sebelius*, No. 12-1380, Order and Judgment (10th Cir. Oct. 3, 2013).

For these reasons, defendants respectfully request that this Court stay district court proceedings in this case pending the Supreme Court’s disposition of the petitions for writ of certiorari that have been filed in *Hobby Lobby*, *Conestoga*, and *Autocam* and, if one or more of those petitions is granted, until the Supreme Court issues its decision.

Opposing counsel has authorized counsel for the government to state that plaintiffs do not oppose this motion.

Respectfully submitted this 17th day of October, 2013,

STUART F. DELERY
Assistant Attorney General

JOHN F. WALSH
United States Attorney

JENNIFER RICKETTS
Director

SHEILA M. LIEBER
Deputy Director

/s/ Bradley P. Humphreys
BRADLEY P. HUMPHREYS (VA Bar No. 83212)

Trial Attorney
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue N.W., Room 7219
Washington, D.C. 20530
Tel: (202) 514-3367
Fax: (202) 616-8470
Email: bradley.p.humphreys@usdoj.gov

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on October 17, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notice of such filing to all parties.

/s/ Bradley P. Humphreys
BRADLEY P. HUMPHREYS
Trial Attorney