

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

DOMINO’S FARMS CORPORATION;
and THOMAS MONAGHAN,

Plaintiffs,

v.

KATHLEEN SEBELIUS, *et al.*,

Defendants.

Case No. 2:12-cv-15488

MOTION TO STAY PROCEEDINGS

Judge Lawrence P. Zatkoff

Magistrate Judge Michael Hluchaniuk

Defendants respectfully move to stay all further proceedings in this case pending the Sixth Circuit’s ruling in *Autocam Corporation v. Sebelius*, No. 12-2673 (6th Cir.), or *Weingartz Supply Company v. Sebelius*, No. 13-1093 (6th Cir.), whichever occurs first. The decision on the merits of the *Autocam* and/or *Weingartz* preliminary injunction appeals will undoubtedly have a significant effect on any further proceedings in this case. The Sixth Circuit will be addressing complex legal issues that are substantially similar to those presented here, involving facts that are analogous to those in this case, challenging the same regulations that are challenged in this case, and raising claims that are also largely indistinguishable from those in this case brought against the same defendants as those in this case. Among the questions that the Sixth Circuit may very well decide are: (1) whether a for-profit, secular corporation can exercise religion under RFRA; (2) whether an obligation imposed on a corporation can be a substantial burden on the corporation’s owners under RFRA; (3) whether any burden imposed on the corporation or its owners under the challenged regulations is too attenuated to qualify as “substantial” under RFRA; and (4) whether the challenged regulations are narrowly tailored to serve compelling governmental interests. These are largely novel questions in this Circuit, and the courts around the country that have thus far confronted these issues in similar cases have reached contradictory

conclusions. Compare, e.g., *Hobby Lobby Stores, Inc. v. Sebelius*, No. 12-6294, 2012 WL 6930302 (10th Cir. Dec. 20, 2012), and *Hobby Lobby Stores, Inc. v. Sebelius*, 870 F.Supp.2d 1278 (W.D. Okla. 2012), and *Conestoga Woods Specialties Corp. v. Sebelius*, ___ F. Supp. 2d ___, 2013 WL 140110 (E.D. Pa. Jan. 11, 2013), with, e.g., *Tyndale House Publishers, Inc. v. Sebelius*, ___ F.Supp.2d ___, 2012 WL 5817323 (D.D.C. Nov. 16, 2012). Thus, even if the Sixth Circuit's ruling does not entirely dispose of this case, the outcome of the appeals is likely to substantially affect the outcome of this litigation, and the Court and the parties will undoubtedly benefit from Sixth Circuit's views.

Accordingly, in order to conserve the resources of the Court and the parties, defendants respectfully ask the Court to stay all proceedings in this case pending the resolution of the appeals in *Autocam* and *Weingartz*.¹ “[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes of its docket with economy of time and effort for itself, for counsel, and for litigants. How this can best be done calls for the exercise of judgment, which must weigh competing interests and maintain an even balance.” *Landis v. N. Am. Co.*, 299 U.S. 248, 254-55 (1936). Thus, the decision to stay proceedings while independent litigation is being resolved is largely discretionary with the Court, and should be made with an eye toward judicial economy and the effect on the litigants.

If this case is not stayed, defendants intend to file a motion to dismiss, upon which the Court would be required to rule without the benefit of the Sixth Circuit's analysis on the merits of the claims that are common to the *Autocam* and *Weingartz* appeals and this case. In addition, to the degree plaintiffs intend to move for summary judgment if defendants' motion is denied, such a motion would raise many of the same legal issues that are likely to be addressed by the

¹ Defendants intend for the same reasons to move to hold the appeal in this case in abeyance pending the Sixth Circuit's decision in *Autocam* and *Weingartz*.

Sixth Circuit in short order. It would be highly inefficient to spend the resources and time of the parties and this Court for litigation to proceed on these issues simultaneously in both courts. *See Ass'n of Irrigated Residents v. Fred Schakel Dairy*, 634 F. Supp. 2d 1081, 1094 (E.D. Cal. 2008) (“[T]he district court has broad discretion to decide whether a stay is appropriate to promote economy of time and effort for itself, for counsel, and for litigants.”). Nor will there be any prejudice to plaintiffs if the proceedings are stayed, as they will have the benefit of a preliminary injunction during the pendency of the stay.

Finally, defendants note that several district courts—including the district court in *Weingartz*—have stayed proceedings in similar circumstances in litigation challenging the preventive services coverage regulations. *See, e.g.*, Order, *Weingartz Supply Co. v. Sebelius*, No. 3:12-cv-12061 (E.D. Mich. Jan. 31, 2013), ECF No. 53; *Triune Health Group, Inc. v. U.S. Dep’t of Health & Human Servs.*, No. 1:12-cv-06756 (N.D. Ill. Apr. 2, 2013); Order, *Conestoga Wood Specialities, Corp. v. Sebelius*, No. 5:12-cv-06744 (E.D. Pa. Jan. 16, 2013), ECF No. 55; Order, *Hobby Lobby v. Sebelius*, No. 5:12-cv-01000 (W.D. Okla. Dec. 12, 2012), ECF No. 55.

For these reasons, defendants ask this Court to stay all proceedings in this case pending resolution of the appeals in *Autocam* or *Weingartz*, whichever occurs first.

Respectfully submitted this 16th day of May, 2013,

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CERTIFICATE OF SERVICE

I certify that, on May 16, 2013, I electronically filed the foregoing paper with the Clerk of Court using the ECF system, which will send notification of such filing to the following:

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