

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

DOMINO’S FARMS CORPORATION; and)
THOMAS MONAGHAN, Owner of)
Domino’s Farms Corporation,)
)
Plaintiffs,)
v.)

KATHLEEN SEBELIUS, Secretary of the)
United States Department of Health and)
Human Services; UNITED STATES)
DEPARTMENT OF HEALTH AND)
HUMAN SERVICES; HILDA SOLIS,)
Secretary of the United States Department of)
Labor; UNITED STATES DEPARTMENT)
OF LABOR; TIMOTHY GEITHNER,)
Secretary of the United States Department of)
the Treasury; and UNITED STATES)
DEPARTMENT OF THE TREASURY,)
)
Defendants.)

Case No. 2:12-cv-15488
BRIEF IN OPPOSITION OF DEFENDANTS’
MOTION TO STAY PROCEEDINGS
Judge Lawrence P. Zatkoff
Magistrate Judge Michael Hluchaniuk

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**PLAINTIFFS' BRIEF IN OPPOSITION OF DEFENDANTS' MOTION TO
STAY PROCEEDINGS**

Plaintiffs oppose Defendants' imprudent motion "to stay all further proceedings in this case," (Doc. #43) at 1, for the following three reasons:

I. SIXTH CIRCUIT PRECEDENT COUNSELS AGAINST STAYING PROCEEDINGS

The Supreme Court has held that "the power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes in its docket with economy of time and effort for itself, for counsel and for litigants." *Landis v. North American Co.*, 299 U.S. 248, 254-55 (1936). The exercise of such authority is within the court's discretion. *Ohio Envtl. Council v. United States Dist. Ct.*, 565 F.2d 393, 396 (6th Cir. 1977). However, the party seeking the stay must demonstrate "that there is *pressing need for delay*, and that neither the other party nor the public will suffer harm from entry of the order." *Ohio Envtl. Council*, 565 F.2d at 396 (*emphasis added*). Here, Defendants cannot prove a pressing need for delay.

A court considering a motion to stay should weigh the following factors: "[1] the potentiality of another case having a dispositive effect on the case to be stayed, [2] the judicial economy to be saved by waiting on a dispositive decision, [3] the public welfare, and [4] the hardship/prejudice to the party opposing the stay, given its duration." *Michael v. Ghee*, 325 F.Supp.2d 829, 831 (2004) (citing *Landis*, 299 U.S. at 255). Defendants rest their argument on the potential of *Autocam* having a dispositive effect on this case; however, pursuant to the express statements of this Honorable Court—*Autocam* is not controlling.

II. THIS HONORABLE COURT PREVIOUSLY RULED THAT *AUTOCAM* IS NOT CONTROLLING¹

This Honorable Court explained in its opinion issuing a preliminary injunction for Plaintiffs that the injunctive relief rested on the unique facts of this case. *See* (Doc. #39) at 8 (discussing how Plaintiff Thomas Monaghan’s beliefs are indistinguishable from Plaintiff Domino’s Farms beliefs and how Plaintiffs’ beliefs are incorporated into the daily operations of Plaintiff Domino’s Farms); *see also Id.* at 9 (“The Court points to the fact that [Plaintiffs] provide[] a Catholic chapel and numerous mass services for its tenants, a Catholic bookstore on-site, and Catholic food options.”). This Honorable Court expressly held that the opinion in *Autocam* “is not persuasive and is inapplicable here, given that this case is factually distinguishable from *Autocam*. *Id.* at 12. Therefore, it would make *no* sense to stay this case pending a decision in *Autocam* when such a decision would be both unpersuasive and inapplicable.

Furthermore, Defendants requested that this case be stayed pending the ruling in either “*Autocam Corporation v. Sebelius*, No. 12-2673 (6th Cir.), or *Weingartz Supply Company v. Sebelius*, No. 13-1093 (6th Cir.), whichever occurs first.” (Doc. #43) at 1, 3. The Sixth Circuit Court of Appeals has granted *Autocam* expedited processing, while in *Weingartz* injunctive relief is in place for the Plaintiffs so no expedited processing is necessary as the Plaintiffs’ constitutional rights are protected through the pendency of the appeal. Per the scheduling of the

¹ *Autocam* and *Weingartz* are not likely to affect the outcome of this case. If either case is resolved in Plaintiffs’ favor, it will mean that the Sixth Court has agreed with this Honorable Court and rejected Defendants’ argument that corporations are incapable of exercising religion and that the H.H.S. Mandate categorically imposes non-substantial burdens. So if the *Autocam* or *Weingartz* Plaintiffs win, the decision will be entirely consistent with this Honorable Court’s own view. If, on the other hand, the Defendants succeed in those cases, the decision will be thoroughly distinguishable from the unique facts of this case as shown during the preliminary injunction proceedings before this Honorable Court.

Sixth Circuit, the *Autocam* decision appears as though it will be issued first. However, if the decision in *Weingartz* issues prior to *Autocam*, that decision will do nothing to negate the unique factual circumstances of the Plaintiffs before this court or negate the appropriateness of injunctive relief to protect Plaintiffs' sincerely and deeply held religious beliefs.

III. THE DEPARTMENT OF JUSTICE INTENDS ON FILING A MOTION TO HOLD THEIR INTERLOCUTORY APPEAL IN ABEYANCE

Lastly, Defendants have already requested for Plaintiffs' concurrence to hold their appeal of this case in abeyance in the Sixth Circuit, a motion Defendants have previously filed in other cases as well. *See, e.g., Weingartz Supply Co. v. Sebelius*, No. 13-1092 & 13-1093, Motion to Hold Appeal in Abeyance (6th Cir. filed Feb. 26, 2013). Defendants state in this motion to the Court that Defendants indeed intend to move to hold this appeal in abeyance; therefore, it is reasonably likely that Defendants will file their motion with the Sixth Circuit in short order. (Doc. #43) at 2, n.1. Therefore, it appears Defendants simultaneously seek a stay in the district court and to hold their appeal in abeyance—or in other words, cease all action in the case. It would be improper to indeterminately pause the litigation of this case and force the case into a state of inactivity, only to wait for a distinguishable case to be decided. Cluttering the court dockets with indefinitely stayed cases does not serve judicial economy.

CONCLUSION

For the reasons stated above, a stay of proceedings under these circumstances would be inappropriate and judicially inefficient. Plaintiffs request that this Honorable Court DENY Defendants' motion.

Respectfully submitted this 20th day of May, 2013.

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CERTIFICATE OF SERVICE

I hereby certify that on May 20, 2013, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. I certify that a copy of the foregoing has been served by ordinary U.S. Mail upon all parties for whom counsel has not yet entered an appearance electronically: None.

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