

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ALABAMA

ETERNAL WORD TELEVISION
NETWORK, INC.,

and

STATE OF ALABAMA,

Plaintiffs,

v.

KATHLEEN SEBELIUS, *et al.*,

Defendants

No. 1:13-cv-521

**EWTN'S REPLY IN SUPPORT OF
MOTION FOR INJUNCTION
PENDING APPEAL**

An injunction pending appeal is necessary to protect EWTN from severe fines beginning July 1. As EWTN explained in its motion, the overwhelming majority of courts to have considered this issue have entered injunctions. Dkt. 64 at 1-2. Defendants protest that two appellate courts have ruled against religious groups, but EWTN explained in its summary judgment briefing and in a recent response to a notice of supplemental authority why those decisions are distinct. *See* Dkt. 50; Dkt. 60. The government does not mention that the U.S. Supreme Court granted emergency relief in a very similar case. *Little Sisters of the Poor v. Sebelius*, No. 13A691 (S. Ct. Jan. 24, 2014) (granting injunction pending appeal).

The injunction factors weigh heavily in EWTN's favor. Dkt. 64 at 2-3. The government claims that EWTN can avoid "onerous penalties" by violating its religious beliefs, signing the form, and complying with the Mandate, but that would itself constitute irreparable harm to EWTN. *See* Dkt. 30, 50. The government also claims that harms to third parties would occur if EWTN does not sign EBSA Form 700, but that conflicts with its argument that EBSA Form 700 is just a "notice" and does not trigger any such obligations. Dkt. 70 at 4-5. EWTN strongly disagrees with that legal argument, *see* Dkt. 50, but if the Court accepts that construction, then it must conclude that no harms would result from granting an injunction pending appeal to EWTN.

For the foregoing reasons, and all the reasons advanced in EWTN's prior filings, (1) EWTN is likely to succeed on the merits of its claims under the Religious Freedom Restoration Act ("RFRA") and the First Amendment; (2) an injunction pending appeal is necessary to prevent irreparable harm to its religious freedom and freedom of speech; (3) the balance of equities tips in favor of an injunction; and (4) an injunction would serve the public interest. *See* Dkt. 30; Dkt. 50.

Respectfully submitted this 19th day of June, 2014.

/s/ Daniel Blomberg

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CERTIFICATE OF SERVICE

I hereby certify that on June 19, 2014, the foregoing motion and memorandum was served via ECF.

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