

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON**

**JOSEPH B. HOLLAND, JR.**; and  
**JOE HOLLAND CHEVROLET, INC.**,  
a West Virginia Corporation,

Plaintiffs,

v.

Civil Action No. 2:13-cv-15487

**THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; KATHLEEN SEBELIUS**, in her official capacity as Secretary of the United States Department of Health and Human Services; **THE UNITED STATES DEPARTMENT OF LABOR; SETH D. HARRIS**, in his official capacity as Acting Secretary of the United States Department of Labor; **THE UNITED STATES DEPARTMENT OF THE TREASURY**; and **JACOB J. LEW**, in his official capacity as Secretary of the United States Department of the Treasury,

Defendants.

**PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER  
AND PRELIMINARY INJUNCTION**

The Plaintiffs, Joseph B. Holland, Jr., and Joe Holland Chevrolet, Inc., by and through their undersigned counsel, pursuant to Rule 65 of the Federal Rules of Civil Procedure, and for the reasons set forth in the accompanying Memorandum of Law, hereby move this Court for a temporary restraining order and preliminary injunction prohibiting Defendants, their agents, officers and employees from applying and enforcing against the Plaintiffs the requirements that the Plaintiffs include in their employee health benefit plan coverage for FDA-approved abortifacient contraceptives and patient education and counseling for such services, including the substantive requirement imposed in 42 U.S.C. §300gg-13(a)(4), the application of the penalties

found in 26 U.S.C. §§ 4980D and 4980H and 29 U.S.C. §1132, and any determination that the requirements are applicable to the Plaintiffs (collectively “the Government Mandate”).

Entry of a temporary restraining order and preliminary injunction is appropriate in this case because there is a threat of irreparable harm to the Plaintiffs, they are likely to succeed on the merits, the balance of harms favors the Plaintiffs, and granting both the temporary restraining order and preliminary injunction would be in the public interest.

The issues presented in this litigation have been litigated in federal courts throughout the United States. Of particular note is the case of *Liberty University v. Lew*, Docket No.10-2347, which is pending before the 4th Circuit Court of Appeals on remand from the United States Supreme Court. The *Liberty* case presents many challenges to the ACA, including the challenges raised by the Plaintiffs in this civil action. Oral argument was heard in the *Liberty* case on May 16, 2013. Resolution of the issues in that case will likely have a substantial affect on the resolution of this civil action.

The Plaintiffs are in need of immediate relief from the Government Mandate because they are subject to the Government Mandate beginning July 1, 2013. Absent relief from this Court, they will not be able to provide to their employees insurance coverage for a new plan year commencing July 1, 2013 that is consistent with the Plaintiffs’ religious beliefs against providing abortifacient drugs and related education and counseling without being exposed to the risk of the severe penalties imposed by the Patient Protection and Affordable Care Act of 2010, the Health Care and Education Reconciliation Act, and the regulations promulgated thereunder. In order that such relief may be timely granted, the Plaintiffs respectfully request that a hearing be scheduled in this matter no later than June 28, 2013.

Bond should be waived since there will be no demonstrable harm to the Defendants if the

unconstitutional acts complained of herein are enjoined.

Plaintiffs have provided to Defendants by overnight mail a copy of the Complaint, this Motion, and the supporting Memorandum. Additionally, Plaintiffs' counsel previously advised the Office of the United States Attorney for the Southern District of West Virginia of their intention to file this lawsuit, and Plaintiffs' counsel provided an Assistant U.S. Attorney with an early draft of a portion of the Complaint.

Respectfully submitted this 24 day of June 2013.

**JOSEPH B. HOLLAND, JR.**  
**JOE HOLLAND CHEVROLET, INC.**

By Counsel

*/s/ Allen R. Prunty*

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