

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

DAVID KING, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 3:13-cv-00630-JRS
)	
KATHLEEN SEBELIUS, in her official capacity)	
as U.S. Secretary of Health and Human Services,)	
<i>et al.</i> ,)	
)	
Defendants.)	
_____)	

**DEFENDANTS’ MOTION TO DISMISS OR, IN THE
ALTERNATIVE, CROSS-MOTION FOR SUMMARY JUDGMENT**

The defendants, Kathleen Sebelius, in her official capacity as Secretary of Health and Human Services; Jacob J. Lew, in his official capacity as Secretary of the Treasury; Daniel I. Werfel, in his official capacity as Acting Commissioner of Internal Revenue; the United States Department of Health and Human Services; the United States Department of the Treasury; and the Internal Revenue Service, respectfully request that the Court dismiss the complaint pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure for lack of jurisdiction, or pursuant to Rule 12(b)(6) of those Rules for failure to state a claim. In the alternative, the defendants respectfully request that the Court award them summary judgment with respect to all claims of all parties pursuant to Rule 56 of the Federal Rule of Civil Procedure. The grounds for this motion are set forth in the accompanying memorandum.

Dated: November 18, 2013

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of November, 2013, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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