

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

UNIVERSITY OF NOTRE DAME,

Plaintiff,

v.

KATHLEEN SEBELIUS, in her official capacity as Secretary of the U.S. Department of Health and Human Services; THOMAS PEREZ, in his official capacity as Secretary of the U.S. Department of Labor; JACOB J. LEW, in his official capacity as Secretary of the U.S. Department of the Treasury; U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES; U.S. DEPARTMENT OF LABOR; and U.S. DEPARTMENT OF THE TREASURY,

Defendants.

Civil Action No.: 3:13-cv-1276

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**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S
MOTION FOR PRELIMINARY INJUNCTION PENDING APPEAL**

In evaluating a motion for preliminary injunction, “a court should grant a preliminary injunction if, after considering four factors, it determines that the balance of equities favors such relief.” *See Eli Lilly & Co. v. Natural Answers, Inc.*, 233 F.3d 456, 461 (7th Cir. 2000). The moving party must show (1) that it is “reasonably likely to succeed on the merits,” (2) that it is “suffering irreparable harm that outweighs any harm the nonmoving party will suffer if the injunction is granted,” (3) that “there is no adequate remedy at law,” and (4) that “an injunction would not harm the public interest.” *Christian Legal Soc’y v. Walker*, 453 F.3d 853, 859 (7th Cir. 2006) (citing *Joelner v. Vill. of Wash. Park*, 378 F.3d 613, 619 (7th Cir. 2004)). Once the moving party meets that burden, the district court applies a “sliding scale” analysis: “the district

court must exercise its discretion to determine whether the balance of harms weighs in favor of the moving party or whether the nonmoving party or public interest will be harmed sufficiently that the injunction should be denied.” *Christian Legal Soc’y*, 453 F.3d at 859; *Duct-O-Wire Co. v. U.S. Crane, Inc.*, 31 F.3d 506, 509 (7th Cir. 1994) (“[T]he greater the moving party’s chance of success on the merits, the less strong a showing must it make that the balance of harms is in its favor.”). Here, a preliminary injunction is warranted because Notre Dame meets all four factors for such interim relief and the balance of harms clearly weighs in its favor.

Notre Dame incorporates by reference here its arguments advanced in its Memoranda in Support of Plaintiff’s Motion for Preliminary Injunction (Docs. 18 and 26) and at oral argument on December 19, 2013. For all those reasons, Notre Dame respectfully requests that the Court adjudicate its motion for preliminary injunction pending appeal enjoining Defendants from any application or enforcement of the Mandate against Notre Dame, its health plans, participants in its health plans, or its third party administrators or insurers.

Dated: December 20, 2013

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on December 20, 2013, I electronically filed the foregoing document with the Clerk of the United States District Court for the Northern District of Indiana using the CM/ECF system, which will send notification of such filing to the following counsel of record:

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