

**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, United States
Department of Health and Human Services, *et*
al.,

Defendants.

Case No. 3:13-cv-1276-PPS-CAN

**DEFENDANTS’ OPPOSITION TO PLAINTIFF’S MOTION FOR INJUNCTION
PENDING APPEAL**

As plaintiff recognizes in its motion for an injunction pending appeal and brief in support, *see* ECF Nos. 41, 42, the standard for the relief plaintiff now seeks is identical to the standard for the relief this Court denied to plaintiff in its opinion and order denying plaintiff’s motion for preliminary injunction, ECF No. 40.

In support of the motion now before this Court for an injunction pending appeal, plaintiff has merely “incorporate[d] by reference” the arguments it made in support of its motion for preliminary injunction. ECF No. 42. This Court properly found those arguments insufficient to justify such relief because, among other reasons, plaintiff is unlikely to succeed on the merits. For the reasons set out in defendants’ brief in opposition to the motion for preliminary injunction, ECF No. 13, and at oral argument on that motion, and for all the reasons set out in this Court’s opinion and order denying that motion, the instant motion for an injunction pending appeal should likewise be denied.

Respectfully submitted this 23rd day of December, 2013,

STUART F. DELERY
Assistant Attorney General

DAVID A. CAPP
United States Attorney

JENNIFER RICKETTS
Director

SHEILA M. LIEBER
Deputy Director

/s/ Michael C. Pollack

MICHAEL C. POLLACK (NY Bar)
Trial Attorney
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue NW, Room 7222
Washington, DC 20530
Tel: (202) 305-8550
Fax: (202) 616-8470
Email: michael.c.pollack@usdoj.gov

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on December 23, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notice of such filing to all parties.

/s/ Michael C. Pollack
MICHAEL C. POLLACK