

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

**ROMAN CATHOLIC DIOCESE OF)
FORT WORTH; UNIVERSITY OF)
DALLAS; OUR LADY OF VICTORY)
CATHOLIC SCHOOL; CATHOLIC)
CHARITIES, DIOCESE OF FORT)
WORTH, INC.,)**

Plaintiffs,

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 Treasury; U.S.)
DEPARTMENT OF HEALTH AND)
HUMAN SERVICES; U.S.)
DEPARTMENT OF LABOR; and U.S.)
DEPARTMENT OF TREASURY,)**

**Civil Action No. 4:12-CV-314-Y
DEMAND FOR JURY TRIAL**

Defendants.

**PLAINTIFFS ROMAN CATHOLIC DIOCESE OF FORT WORTH, OUR
LADY OF VICTORY CATHOLIC SCHOOL, AND CATHOLIC CHARITIES,
DIOCESE OF FORT WORTH, INC.’S REPLY IN SUPPORT OF
MOTION FOR PRELIMINARY INJUNCTION**

Plaintiffs¹ have established all the requirements for obtaining a preliminary injunction through their prior briefing and affidavits. In their Motion for Preliminary Injunction, Plaintiffs incorporated their briefing and affidavits from their summary judgment motion, which

¹ “Plaintiffs” in this Reply refers to Roman Catholic Diocese of Fort Worth (“Diocese), Our Lady of Victory Catholic School (“OLV”), and Catholic Charities, Diocese of Fort Worth, Inc. (“Catholic Charities”). The only other plaintiff, the University of Dallas, has already received a preliminary injunction.

established that Plaintiffs met all the requirements for a final judgment and permanent injunction (doc. 72, 73, 85, 86, 92, 96, 100). This briefing and evidence also establishes the four requirements for a preliminary injunction: (1) Plaintiffs are substantially likely to succeed on the merits of their claims (doc. 72 at 15-45); (2) they face a substantial threat of irreparable injury if the injunction is not issued (*id.* at 45-46; doc. 73 at Appx. 17, 22, 28); (3) the threatened injury if the injunction is denied outweighs any harm that will result if the injunction is granted (doc. 72 at 46-47); and (4) granting the injunction will not disserve the public interest (*id.* at 47-48).

Presented with this same briefing and evidence, the Court already issued a preliminary injunction (doc. 98) in favor of the University of Dallas, a co-plaintiff whose plan year began over six months earlier than the plan years of the remaining plaintiffs. In their response (doc. 104), Defendants have not shown why the remaining Plaintiffs are any less entitled to a preliminary injunction than the University of Dallas.

Absent a preliminary injunction, Plaintiffs will risk penalties and enforcement actions by the Defendants. The U.S. Circuit Court of Appeals for the Fifth Circuit is not expected to rule in time for the Plaintiffs to avoid injury. As of the filing of this Reply, the Fifth Circuit has consolidated the interlocutory appeal from this case with two other, similar appeals, but there currently is not a briefing schedule in the consolidated appeals. Meanwhile, Defendants refuse to agree that they will not enforce the regulations against Plaintiffs. Thus, a preliminary injunction from this Court remains the Plaintiffs' only hope for preventing the enforcement of the Mandate while Plaintiffs await further developments from the Fifth Circuit and the U.S. Supreme Court.

For these reasons, the Diocese, OLV, and Catholic Charities respectfully ask that this Court grant the requested relief and enter an Order prohibiting Defendants, during the pendency of this litigation, from enforcing the U.S. Government Mandate against the Plaintiffs.

Respectfully submitted, this the 9th day of May, 2014.

By: /s/ Basheer Y. Ghorayeb
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CERTIFICATE OF SERVICE

I certify that on May 9th, 2014 I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which sent notice of such filing to all parties.

/s/ Basheer Y. Ghorayeb
Basheer Y. Ghorayeb