

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

Case No. 13-CV-01375-ADM-LIB

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SMA, LLC, MICHAEL BREY, and  
STANLEY BREY,

*Plaintiffs,*

*vs.*

KATHLEEN SEBELIUS, in her official capacity  
as Secretary of the United States Department of  
Health and Human Services, et al.

*Defendants.*

**MOTION FOR PRELIMINARY  
INJUNCTION/STAY**

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**MOTION**

Plaintiffs SMA, LLC, Michael Brey and Stanley Brey, by and through their attorneys, move the Court for the following relief:

1. A preliminary injunction, in the form proposed in the accompanying proposed order -- which includes a stay of proceedings until thirty days after the mandate issues from the Eighth Circuit in *O'Brien v. U.S. Dep't of Health & Human Servs.*, No. 12-3357, or *Annex Medical, Inc. v. Sebelius*, No. 13-1118, whichever occurs first -- against the enforcement of 42 U.S.C. § 300gg-13(a)(4) (the "Mandate") and each and

every one of its implementing regulations, published at 76 Fed. Reg. 46621-46626 (August 3, 2011) (interim final rules with request for comments) and 77 Fed. Reg. 8725-8730 (Feb. 15, 2012) (final rules), against:

- a. these Plaintiffs;
- b. any health insurance issuer offering group health insurance to these Plaintiffs, which health insurance does not provide coverage for “All Food and Drug Administration approved contraceptive methods, sterilization procedures, and patient education and counseling for all women with reproductive capacity”; and
- c. any third-party administrator implementing any self-insured plan in favor of these Plaintiffs under the Employee Retirement Income Security Act of 1974 (ERISA) to which the Mandate and its implementing regulations would otherwise apply, which self-insured plan does not cover “All Food and Drug Administration approved contraceptive methods, sterilization procedures, and patient education and counseling for all women with reproductive capacity.”

It is not expected that this Motion will be opposed. In the event this Motion is opposed, the grounds for granting this Motion will be set forth in a memorandum of law and in arguments of counsel.

Dated: July 1, 2013.

**MOHRMAN & KAARDAL, P.A.**

s/Erick G. Kaardal

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LLC, MICHAEL BREY AND STANLEY  
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