

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION

SHARPE HOLDINGS, INC., et al.,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 2:12-cv-00092-DDN
)	
UNITED STATES DEPARTMENT)	
OF HEALTH AND HUMAN SERVICES,)	
et al.,)	
)	
Defendants.)	

**UNOPPOSED MOTION OF OZARK NATIONAL LIFE INSURANCE COMPANY,
N.I.S. FINANCIAL SERVICES, INC. AND CNS CORPORATION
FOR PRELIMINARY INJUNCTION**

Plaintiffs Ozark National Life Insurance Company, N.I.S. Financial Services, Inc. and CNS Corporation (“these Plaintiffs”), by and through their undersigned counsel, pursuant to Rule 65 of the Federal Rules of Civil Procedure, hereby move this Court for a preliminary injunction prohibiting Defendants, their agents, officers and employees from applying and enforcing against these Plaintiffs, their employee health plan(s), or their insurer(s) the statute and regulations that require Plaintiffs to provide employees insurance coverage for “[a]ll Food and Drug Administration approved contraceptive methods, sterilization procedures, and patient education and counseling for all women with reproductive capacity,” as prescribed by a health care provider, 77 Fed. Reg. 8725, as well as any penalties, fines, assessments, or enforcement actions for non-compliance, including those found in 26 U.S.C. §§ 4980D and 4980H, and 29 U.S.C. § 1132, to the extent these regulations require coverage of services that Plaintiffs believe to be abortifacients.

1. Ozark National Life Insurance Company (“Ozark”) is a Missouri for-profit insurance corporation that employs more than 50 men and women. Ozark offers health insurance to its employees through a third-party insurance company, Aetna.

2. N.I.S. Financial Services, Inc. (“N.I.S.”) is a Missouri for-profit general business corporation that employs fewer than 50 men and women. N.I.S. is a mutual fund broker. N.I.S. offers health insurance to its employees through a third-party insurance company, Aetna.

3. CNS Corporation is a Missouri for-profit general business corporation that employs fewer than 50 men and women. CNS Corporation is the holding company for Ozark and N.I.S., along with Sharpe Holdings, Inc., which is already a plaintiff. CNS Corporation offers health insurance to its employees through a third-party insurance company, Aetna.

4. Plaintiff Charles N. Sharpe is the founder, owner, president and chairman of the board of Ozark; the founder, owner and chairman of the board of N.I.S.; and the founder, owner, president and chairman of the board of CNS Corporation.

5. Mr. Sharpe is responsible for setting all policies governing the conduct of all phases of the businesses of these Plaintiffs, and he strives to operate these Plaintiffs’ businesses according to Christian principles and coinciding sincerely held religious beliefs.

6. Charles N. Sharpe and these Plaintiffs oppose the use, funding, provision or support of abortion on demand as a matter of sincerely held religious belief and practice. Charles N. Sharpe and these Plaintiffs believe that Plan B (the “morning after pill”), ella (the “week after pill”) and the copper intra-uterine device (“IUD”) can and do cause the demise of fertilized eggs and are therefore abortifacients.

7. These Plaintiffs seek a preliminary injunction because there is a threat of irreparable harm to these Plaintiffs, these Plaintiffs are likely to succeed on the merits, the

balance of harms favors these Plaintiffs, and granting the injunction is in the public interest.

8. In addition, these Plaintiffs require immediate injunctive relief because the renewal date of their employee health benefit plan is July 1, 2013, and these Plaintiffs must complete the process of identifying an appropriate health plan and completing the enrollment process for their employees immediately.

9. The Court granted the original Plaintiffs—who have similar claims to those of these Plaintiffs—a temporary restraining order. In light of the rulings of motions panels of the Eighth Circuit Court of Appeals in *O'Brien v. U.S. Department of Health & Human Services*, No. 12-3357, Order (8th Cir. Nov. 28, 2012), and *Annex Medical, Inc. v. Sebelius*, No. 13-1118, Order (8th Cir. Feb. 1, 2012), Defendants have not opposed the entry of a preliminary injunction in favor of the original Plaintiffs, based on their Religious Freedom Restoration Act (RFRA) claim,¹ until 30 days after the mandate issues from the appeal in *O'Brien* or *Annex Medical*, whichever occurs first. The Eighth Circuit granted preliminary injunctions pending appeal enjoining enforcement of the entire contraceptive mandate against similar plaintiffs in *O'Brien* and *Annex Medical*.

10. For reasons Defendants stated when notifying this Court of their non-opposition to Plaintiffs' motion for preliminary injunction, *see* ECF No. 41, the Defendants do not oppose granting of this motion, based on Plaintiffs' RFRA claim, until 30 days after the mandate issues from the appeal in *O'Brien* or *Annex Medical*, whichever occurs first.

11. Defendants do not request a bond. Thus, bond should be waived.

Wherefore, these Plaintiffs move the Court for a preliminary injunction, as described above.

Respectfully submitted this 14th day of June, 2013.

¹ The Plaintiffs' RFRA claim is, as with the original Complaint, Count I of the First Amended Complaint.

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Certificate of Service

I hereby certify that on June 14, 2013, the foregoing was filed electronically with the Clerk of the Court for the United States District Court for the Eastern District of Missouri to be served by operation of the Court's electronic filing system upon the following registered CM/ECF participants:

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