

[ORAL ARGUMENT NOT YET SCHEDULED]

IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

TYNDALE HOUSE PUBLISHERS, INC., and  
MARK D. TAYLOR,

Plaintiffs-Appellees,

v.

KATHLEEN SEBELIUS, Secretary of the U.S.  
Department of Health and Human Services,  
et al.,

Defendants-Appellants.

No. 13-5018

**REPLY TO PLAINTIFFS' OPPOSITION TO MOTION FOR  
VOLUNTARY DISMISSAL OF INTERLOCUTORY APPEAL  
PURSUANT TO RULE 42(b)**

Plaintiffs sought and obtained a preliminary injunction that bars the government from enforcing against plaintiffs the requirement that the group health plan sponsored by Tyndale House Publishers, Inc., provide contraceptive coverage. Under 28 U.S.C. § 1292(a), an enjoined party is permitted but not required to appeal a preliminary injunction on an interlocutory basis. On April 25, 2013, the Solicitor General of the United States determined not to pursue an interlocutory

appeal from the preliminary injunction entered in this case. Accordingly, the government moved to dismiss its appeal voluntarily, pursuant to Rule 42(b) of the Federal Rules of Federal Procedure.

Plaintiffs have filed an opposition to that motion that indicates that they would prefer that the government pursue an interlocutory appeal from the preliminary injunction in this case. No statute or rule permits a prevailing party to require that an enjoined party pursue an interlocutory appeal.

Respectfully submitted,

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/s/ Alisa B. Klein

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April 26, 2013

**CERTIFICATE OF SERVICE**

I hereby certify that on April 26, 2013, I filed and served the foregoing reply on counsel of record through this Court's CM/ECF system.

/s/ Alisa B. Klein

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Alisa B. Klein