## UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN

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) Case No.: 2:12-cv-12061-RHC-MJH
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) DEFENDANTS' OPPOSITION TO
PLAINTIFF'S MOTION FOR TEMPORARY
) RESTRAINING ORDER
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) Judge Robert H. Cleland
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) Magistrate Judge Michael Hluchaniuk
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In response to defendants' motion to stay briefing on plaintiff Legatus's motion for preliminary injunction, which was occasioned by the recent lapse of appropriations, plaintiff has moved for a temporary restraining order. Plaintiff asks the Court to temporarily enjoin enforcement of the contraceptive coverage requirement until plaintiff's motion for preliminary injunction has been fully briefed and the Court has rendered a decision on that motion.

Plaintiff's motion for a temporary restraining order should be denied because it is absurd. The regulations plaintiff challenges will not be in effect as to plaintiff until January 1, 2014. Even assuming plaintiff needs time to prepare to comply with those regulations, plaintiff's counsel previously represented to the Court that a decision on the motion for preliminary injunction in mid-to-late November would give plaintiff sufficient time for any needed preparation. Thus, it is simply wrong to say, as plaintiff does, that the challenged regulations "will continue to be enforced" against plaintiff, that "Plaintiff[] will face government sanction

without an opportunity to be heard, or that the requested stay will "caus[e] the enforcement of the Mandate on Plaintiff Legatus while prohibiting any opposition." Pl.'s Mot. for TRO at 2, ECF No. 71.

Plaintiff may oppose the government's motion for a stay of briefing until Congress has restored appropriations to the Department of Justice; and this Court may deny that motion, or grant a stay for only a limited period of time, if the Court does not believe that the government has shown good cause for the requested relief (although the government believes it has for the reasons stated in the motion). But nothing about the government's motion entitles plaintiff to a temporary restraining order now to enjoin the enforcement of regulations that do not take effect as to plaintiff until January 1, 2014. Plaintiff simply has not made any showing of irreparable harm. Accordingly, the motion should be summarily denied.

Dated: October 1, 2013 Respectfully submitted,

STUART F. DELERY Assistant Attorney General

BARBARA L. McQUADE United States Attorney Eastern District of Michigan

SHEILA M. LIEBER Deputy Branch Director

s/ Michelle R. Bennett

MICHELLE R. BENNETT (CO Bar No. 37050)
Trial Attorney
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue N.W. Room 7310
Washington, D.C. 20530

Tel: (202) 305-8902; Fax: (202) 616-8470 Email: michelle.bennett@usdoi.gov

Attorneys for Defendants

<sup>&</sup>lt;sup>1</sup> Defendants note that the Court lifted the stay occasioned by Legatus's appeal of the Court's prior denial of preliminary injunctive relief on August 9, 2013. Yet, plaintiff waited until September 20, 2013 to file a motion for preliminary injunction with respect to the new regulations.

## **CERTIFICATE OF SERVICE**

I certify that on October 1, 2013, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: Erin E. Mersino, Richard Thompson; and I certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: NONE.

s/ Michelle R. Bennett
MICHELLE R. BENNETT (CO Bar No. 37050)
Trial Attorney
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue N.W. Room 7310
Washington, D.C. 20530

Tel: (202) 305-8902 Fax: (202) 616-8470

Email: michelle.bennett@usdoj.gov