

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

LEGATUS, et al.,)	
)	
Plaintiffs,)	Case No.: 2:12-cv-12061-RHC-MJH
v.)	
)	Judge Robert H. Cleland
KATHLEEN SEBELIUS, et al.,)	
)	Magistrate Judge Michael Hluchaniuk
Defendants.)	
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**PLAINTIFF LEGATUS’ REPLY IN SUPPORT OF MOTION FOR
TEMPORARY RESTRAINING ORDER**

Defendants’ claim, that Plaintiff’s motion for a temporary restraining order is “absurd,” is overblown and unsubstantiated.

Defendants motioned for a stay for an indiscriminate period of time which would disturb the Court’s expedited briefing schedule. Such a stay would inevitably delay a decision on the Plaintiff’s Motion for a Preliminary Injunction. This delay would reasonably push a decision on Plaintiff’s Motion for a Preliminary Injunction beyond the end of November.

Despite Defendants’ naked assertions, waiting until January 1, 2014 to render a decision on Plaintiff’s motion would not appropriately allow Plaintiff time to coordinate their employee health benefits plan. As pleaded in Plaintiff’s Motion

for Preliminary Injunction and its attached exhibits, implementing an employee health benefits plan take times and requires negotiation of a new health plan, an at minimum 30 day open enrollment period for Plaintiff's employees, production and distribution of plan materials, as well as adopting a plan for implementation. *See, e.g.*, (Doc. #68 at Ex. 1 at ¶¶ 52-57, Ex. 2 at ¶¶ 15-21). The need for relief prior to the drop dead date of the Mandate influenced Plaintiff's decision to re-open this matter on the day that Defendants' regulations went into place.¹ Plaintiff has sought and continues to seek relief from the Mandate as soon as practicable.

There is no question that Defendants will implement the Mandate on Plaintiff's plan absent relief from the Court. There is no necessity for the Court to allow this action. For the past twelve months, Plaintiff Legatus has been under a temporary safe harbor and therefore exempted from the Mandate by the Defendants' own volition. A temporary restraining order effectively extends the temporary safe harbor until the Court can examine whether or not the Mandate violates Plaintiff's sincerely held religious beliefs and constitutional freedoms.

¹ Defendants' claim that Plaintiff somehow delayed this request for injunctive relief is simply unfounded. Plaintiff moved to re-open this case on August 1, 2013. The Court timely granted the motion and in the same order set a scheduling conference for August 21, 2013. (Doc. #62). At the scheduling conference, Defendants discussed how the Administrative Record could not be produced until September. All parties agreed that the briefing schedule was appropriate, and Plaintiff has timely met the ordered schedule as set. Any claim that Plaintiff somehow delayed their motion for a preliminary injunction is disingenuous at best.

For the reasons above and those stated in Plaintiff's initial motion, Plaintiff requests for the Court to either 1) continue with its ordered briefing schedule, or 2) stay the case with the protection of temporary injunctive relief.

Respectfully submitted this 2nd day of October, 2013.

Attorneys for Plaintiffs:

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s/ Erin Mersino

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CERTIFICATE OF SERVICE

I hereby certify that on October 2, 2013, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. I certify that a copy of the foregoing has been served by ordinary U.S. Mail upon all parties for whom counsel has not yet entered an appearance electronically: None

THOMAS MORE LAW CENTER

s/ Erin Mersino

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