

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MOST REVEREND LAWRENCE T.)	
PERSICO, BISHOP OF THE ROMAN)	Civil Action No. 1:13-cv-00303
CATHOLIC DIOCESE OF ERIE, et al.,)	
)	Judge Arthur J. Schwab
Plaintiffs)	
)	
v.)	
)	
KATHLEEN SEBELIUS, et al.,)	
)	
Defendants.)	
)	
)	

MOST REVEREND DAVID A. ZUBIK,)	
BISHOP OF THE ROMAN CATHOLIC)	
DIOCESE OF PITTSBURGH, et al.,)	Civil Action No. 2:13-cv-01459
)	
Plaintiffs,)	Judge Arthur J. Schwab
)	
v.)	
)	
KATHLEEN SEBELIUS, et al.,)	
)	
Defendants.)	
)	
)	

**DEFENDANTS’ NOTICE OF NON-OPPOSITION TO PLAINTIFFS’ MOTION TO
CONVERT PRELIMINARY INJUNCTION INTO PERMANENT INJUNCTION**

On November 21, 2013, this Court granted plaintiffs’ motions for preliminary injunctions, concluding, as a legal matter, that the challenged regulations substantially burden plaintiffs’ exercise of religion and that the regulations do not further any compelling governmental interest. *See Zubik v. Sebelius*, No. 1:13-cv-01459, 2013 WL 6118696 (W.D. Pa. 2013). Defendants respectfully disagree with the Court’s analysis for all of the reasons stated in defendants’ opposition to plaintiffs’ motions for preliminary injunctions. *See* Defs.’ Mem. in Opp’n to Pls.’ Mot for Prelim. Inj., *Zubik v. Persico*, No. 2:13-cv-01459 (W.D. Pa.), ECF No.

23; Defs.' Mem. in Opp'n to Pls.' Mot. for Prelim. Inj., *Persico v. Sebelius*, No. 1:13-cv-00303 (W.D. Pa.), ECF No. 28. In fact, defendants believe that all of plaintiffs' claims lack merit and that plaintiffs' cases should be dismissed in their entirety or, in the alternative, that summary judgment should be entered in defendants' favor. *See* Defs.' Mem. in Supp. of Defs.' Mot. to Dismiss or, in the Alt., for Summ. J., *Zubik v. Sebelius*, No. 2:13-cv-01459 (W.D. Pa.), ECF No. 50; Defs.' Mem. in Supp. of Defs.' Mot. to Dismiss or, in the Alt., for Summ. J., *Persico v. Sebelius*, No. 1:13-cv-00303 (W.D. Pa.), ECF No. 49.

Recognizing, however, that the Court has already determined that plaintiffs are likely to succeed on the merits of their RFRA claims and that this Court's legal analysis would apply to any further proceedings in these cases, defendants write to inform the Court that they do not oppose plaintiffs' motions to convert the preliminary injunctions entered in these cases to permanent injunctions. (*Zubik*, ECF No. 78; *Persico*, ECF No. 78). In doing so, defendants in no way suggest that they agree with plaintiffs' characterization of the issues raised in these cases. Defendants respectfully reserve all arguments stated in their oppositions to plaintiffs' motions for preliminary injunctions and in defendants' motions to dismiss or, in the alternative, for summary judgment, for the purposes of appeal.

Respectfully submitted this 20th day of December, 2013,

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