

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge R. Brooke Jackson

Civil Action No 13-cv-00563-RBJ

W.L. (BILL) ARMSTRONG;
JEFFREY S. MAY;
WILLIAM L. (WIL) ARMSTRONG III;
JOHN A. MAY;
DOROTHY A. SHANAHAN; and
CHERRY CREEK MORTGAGE CO., INC.,
a Colorado corporation,

Plaintiffs,

v.

KATHLEEN SEBELIUS, in her official capacity as
Secretary of the United States Department of Health
and Human Services;
SETH D. HARRIS, in his official capacity as Acting
Secretary of the United States Department of Labor,
JACOB J. LEW, in his official capacity as Secretary
of the United States Department of Treasury;
UNITED STATES DEPARTMENT OF HEALTH
AND HUMAN SERVICES;
UNITED STATES DEPARTMENT OF LABOR; and
UNITED STATES DEPARTMENT OF THE TREASURY,

Defendants.

ORDER

The parties' respective responses to the Court's order of August 1, 2013 show that they sharply disagree as to whether plaintiffs' pending appeal divests this Court of jurisdiction to reconsider its denial of a preliminary injunction in light of the en banc decision in *Hobby Lobby Stores, Inc. v. Sebelius*, 2013 WL 3216103 (10th Cir. June 27, 2013). They do appear to agree that if the Court has, or reacquires, jurisdiction, an evidentiary hearing is not necessary.

If (1) plaintiffs file a motion to suspend their appeal pending reconsideration of the injunction issue by this Court, which the government has indicated it will not oppose, or (2) the defendant files a similar motion in the Circuit, and (3) either as a result of such a motion by either party or *sua sponte* the Tenth Circuit remands the case to this Court to reconsider its decision in light of *Hobby Lobby*, the Court will then do so.

DATED this 19th day of August, 2013.

BY THE COURT:

A handwritten signature in black ink, appearing to read "R. Brooke Jackson", with a long, sweeping flourish extending to the right.

R. Brooke Jackson
United States District Judge