

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

| | | |
|----------------------------------------|---|------------------------------|
| FRANCIS A. GILARDI, JR., <i>et al.</i> |) | |
| |) | |
| Plaintiffs, |) | |
| |) | Civil Action No. 13-104(EGS) |
| v. |) | |
| |) | |
| UNITED STATES DEPARTMENT OF |) | |
| HEALTH AND HUMAN SERVICES, |) | |
| <i>et al.</i> |) | |
| |) | |
| Defendants. |) | |
| <hr/> | | |

ORDER

In light of the Supreme Court's decision in *Burwell v. Hobby Lobby Stores, Inc.*, 134 S. Ct. 2751 (2014), and upon the consent of the Plaintiffs and Defendants, it is hereby

ORDERED that Defendants, their employees, agents, and successors in office are permanently **ENJOINED**

a) from enforcing

- 1) the "June 30, 2014 Contraceptive Coverage Requirement," defined here to include those provisions of federal law in existence on June 30, 2014, when the Supreme Court decided *Hobby Lobby*, that require Plaintiffs Fresh Unlimited, Inc., d/b/a Freshway Foods, and Freshway Logistics, Inc. (hereafter "the Freshway Companies") to provide their employees with health coverage for contraceptive methods, sterilization procedures, and related patient

education and counseling to which Plaintiffs object on religious grounds, *e.g.*, 26 C.F.R. § 54.9815-2713(a)(1)(iv); 29 C.F.R. § 2590.715-2713(a)(1)(iv); 45 C.F.R. § 147.130(a)(1)(iv); and

2) any penalties, fines, or assessments for noncompliance with the June 30, 2014 Contraceptive Coverage Requirement, including those found in 26 U.S.C. § 4980D and 29 U.S.C. §§ 1132 and 1185d; and

b) from taking any other actions based on noncompliance with the June 30, 2014 Contraceptive Coverage Requirement

against Plaintiffs Freshway Companies, their employee health plan(s), the group health coverage provided in connection with such plan(s), and/or the Freshway Companies' health insurance issuers and/or third-party administrators with respect to the Freshway Companies' health plan(s); and it is

FURTHER ORDERED that judgment is entered in favor of Plaintiffs and against Defendants on Plaintiffs' claim under the Religious Freedom Restoration Act, 42 U.S.C. §§ 2000bb *et seq.*; and it is

FURTHER ORDERED that all other claims against Defendants are **DISMISSED**; and it is

FURTHER ORDERED that, pursuant to Local Civ. R. 54.2, the parties are directed to confer and attempt to reach agreement on attorneys' fees and costs. The parties are further directed to file a joint status report, including a recommendation for further proceedings, by no later than December 12, 2014. In the event that counsel are unable to agree on a joint recommendation, each party shall file an individual recommendation by that time. A status conference will be held on December 17, 2014 at 2:00 p.m. in Courtroom 24A, to discuss the matter pursuant to Local Civ. R. 54.2. If there is no resolution of the attorneys' fees and costs matter at the status conference, Plaintiffs may file a motion for attorneys' fees and costs within thirty days of that status conference, pursuant to Fed. R. Civ. P. 54, unless a different schedule is ordered at that conference; and it is

FURTHER ORDERED that this Injunction and Judgment does not apply with respect to any changes in statute or regulation that are enacted or promulgated after this date, and nothing herein prevents Plaintiffs from filing a new civil action to challenge any such future changes.

SO ORDERED.

Signed: Emmet G. Sullivan
United States District Judge
October 20, 2014