

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 14-12696

ETERNAL WORD TELEVISION NETWORK, INC.,

Plaintiff - Appellant,

versus

SECRETARY OF THE U.S. DEPARTMENT OF HEALTH AND HUMAN
SERVICES,
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES,
SECRETARY OF THE U.S. DEPARTMENT OF LABOR,
U.S. DEPARTMENT OF LABOR,
SECRETARY OF THE U.S. DEPARTMENT OF THE TREASURY,
U.S. DEPARTMENT OF THE TREASURY,

Defendants - Appellees.

Appeals from the United States District Court
for the Southern District of Alabama

Nos. 14-12890; 14-13239

THE ROMAN CATHOLIC ARCHDIOCESE
OF ATLANTA,
an association of churches and schools,

THE MOST REVEREND WILTON D. GREGORY,
and his successors, Archbishop of the Roman
Catholic Archdiocese of Atlanta,
CATHOLIC CHARITIES OF THE ARCHDIOCESE
OF ATLANTA, INC.,
a Georgia non-profit corporation,
THE ROMAN CATHOLIC DIOCESE OF SAVANNAH,
an ecclesiastical territory,
THE MOST REVEREND JOHN HARTMAYER,
and his successors, Bishop of the Roman
Catholic Diocese of Savannah, et al.,

Plaintiffs - Appellees,

versus

SECRETARY, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES,
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES,
U.S. DEPARTMENT OF LABOR,
U.S. DEPARTMENT OF TREASURY,
SECRETARY, U.S. DEPARTMENT OF LABOR,
SECRETARY, U.S. DEPARTMENT OF TREASURY,

Defendants - Appellants.

Appeals from the United States District Court
for the Northern District of Georgia

Before TJOFLAT, JILL PRYOR and ANDERSON, Circuit Judges.

BY THE COURT:

These cases are before the Court on the government's motion requesting that
the Court issue an order materially identical to the remand orders issued by the

Supreme Court in *Zubik v. Burwell*, 136 S. Ct. 1557 (2016), and other related cases presenting the same issue. After the Supreme Court's decision in *Zubik*, we entered an order continuing to enjoin the government from enforcing against the plaintiffs the substantive requirements of 42 U.S.C. § 300gg-13(a)(4) and from assessing penalties or taking other actions against the plaintiffs for non-compliance. In its motion, the government asks us to clarify that under the injunction it may notify plaintiffs' third-party administrators of their obligation to make separate payments for contraceptives under the accommodation. The motion is **GRANTED**.

As such, we modify the injunction entered on May 31, 2016 to add that:

Nothing in this opinion, [in this Court's prior opinion or orders], or in the opinions or orders of the courts below, is to affect the ability of the Government to ensure that women covered by the [plaintiffs'] health plans "obtain, without cost, the full range of FDA approved contraceptives." Through this litigation, [plaintiffs] have made the Government aware of their view that they meet "the requirements for exemption from the contraceptive coverage requirement on religious grounds." Nothing in this opinion, [in this Court's prior opinions or orders], or in the opinions or orders of the courts below, "precludes the Government from relying on this notice, to the extent it considers it necessary, to facilitate the provision of full contraceptive coverage" going forward. Because the Government may rely on this notice, the Government may not impose taxes or penalties on [plaintiffs] for failure to provide the relevant notice.

Zubik, 136 S. Ct. at 1560-61 (quoting *Wheaton College v. Burwell*, 134 S. Ct. 2806, 2807 (2014)); accord *Mich. Catholic Conference v. Burwell*, 136 S. Ct. 2450 (2016); *Catholic Health Care Sys. v. Burwell*, 136 S. Ct. 2450 (2016); *Grace Sch.*

v. Burwell, 136 S. Ct. 2011 (2016); *Diocese of Fort Wayne-South Bend, Inc. v. Burwell*, 136 S. Ct. 2010 (2016); *Univ. of Dallas v. Burwell*, 136 S. Ct. 2008 (2016); *Univ. of Notre Dame v. Burwell*, 136 S. Ct. 2007 (2016); *Dept. of Health & Human Servs. v. CNS Int'l Ministries*, 136 S. Ct. 2006 (2016); *Burwell v. Dordt Coll.*, 136 S. Ct. 2006 (2016).¹

¹ The plaintiffs contend that we should deny the government's motion as untimely under our local rules. But even if the government's motion was untimely, the plaintiffs present no compelling reason why we lack the inherent authority to modify our injunction.

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

October 03, 2016

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 14-12696-CC ; 14-12890 -CC ; 14-13239 -CC
Case Style: Eternal Word Television Networ v. U.S. Department of Health and, et al
District Court Docket No: 1:13-cv-00521-CG-C

This Court requires all counsel to file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause.

The enclosed order has been ENTERED.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Joe Caruso
Phone #: (404) 335-6177

MOT-2 Notice of Court Action