

CLOSED

**United States District Court
Western District of Michigan (Southern Division (1))
CIVIL DOCKET FOR CASE #: 1:13-cv-00031-RJJ**

Infrastructure Alternatives, Inc. et al v. Sebelius et al
Assigned to: Judge Robert J. Jonker
Cause: 05:702 Administrative Procedure Act

Date Filed: 01/10/2013
Date Terminated: 09/30/2013
Jury Demand: None
Nature of Suit: 890 Other Statutory
Actions
Jurisdiction: U.S. Government Defendant

plaintiff

Infrastructure Alternatives, Inc.

represented by **Douglas A. Donnell**
Mika Meyers Beckett & Jones PLC
900 Monroe Ave., NW
Grand Rapids, MI 49503
(616) 632-8000
Email: ddonnell@mmbjlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

plaintiff

William J. Cretens

represented by **Douglas A. Donnell**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

plaintiff

Dana Trierweiler

represented by **Douglas A. Donnell**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

defendant

Kathleen Sebelius
*Secretary of the United States Department
of Health and Human Services*

represented by **Michael Charles Pollack**
U.S. Department of Justice (CIV-Fed
Programs Branch)
20 Massachusetts Ave., NW, Rm. 7214
Washington, DC 20530
(202) 305-8550
Email: michael.c.pollack@usdoj.gov
ATTORNEY TO BE NOTICED

defendant

**United States Department of Health
and Human Services**

represented by **Michael Charles Pollack**
(See above for address)
ATTORNEY TO BE NOTICED

defendant

Hilda L. Solis
*Secretary of the United States Department
of Labor*

represented by **Michael Charles Pollack**
(See above for address)
ATTORNEY TO BE NOTICED

defendant

United States Department of Labor

represented by **Michael Charles Pollack**
(See above for address)

ATTORNEY TO BE NOTICED

defendant

Timothy Geithner
*named as Timothy F. Geithner, Secretary
of the United States Department of the
Treasury*

represented by **Michael Charles Pollack**
(See above for address)
ATTORNEY TO BE NOTICED

defendant

United States Department of Treasury

represented by **Michael Charles Pollack**
(See above for address)
ATTORNEY TO BE NOTICED

amicus

American Civil Liberties Union

represented by **Michael J. Steinberg**
ACLU Fund of Michigan (Detroit)
2966 Woodward Ave.
Detroit, MI 48201-3035
(313) 578-6814
Email: msteinberg@aclumich.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Brigitte Adrienne Amiri
American Civil Liberties Union
125 Broad St., 18th Fl.
New York, NY 10004
(212) 549-2633
Email: bamiri@aclu.org
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
01/10/2013	<u>1</u>	COMPLAINT against All Defendants filed by William J. Cretens, Infrastructure Alternatives, Inc., Dana Trierweiler (Attachments: # <u>1</u> Civil Cover Sheet)(kvt) (Entered: 01/14/2013)
01/10/2013		RECEIPT: in the amount of \$350.00, receipt number GR033186; for filing fee (kvt) (Entered: 01/14/2013)
01/10/2013	<u>2</u>	CORPORATE DISCLOSURE STATEMENT by Infrastructure Alternatives, Inc. (kvt) (Entered: 01/14/2013)
01/10/2013		SUMMONS ISSUED as to defendants Timothy Geithner, Kathleen Sebelius, Hilda L. Solis, United States Department of Health and Human Services, United States Department of Labor, United States Department of Treasury, U.S. Attorney and U.S. Attorney General and returned to attorney for plaintiffs (kvt) Modified text on 1/14/2013 (kvt). (Entered: 01/14/2013)
01/14/2013	<u>3</u>	NOTICE that this case has been assigned to Judge Robert J. Jonker ; with NOTICE OF DEFICIENCY re paper filed initiating documents (kvt) (Entered: 01/14/2013)
01/22/2013	<u>4</u>	(DISREGARD) ACKNOWLEDGMENT OF SERVICE on behalf of Hilda L. Solis served on 1/16/2013, answer due 2/6/2013 (Donnell, Douglas) Modified on 1/22/2013 – attorney filed corrected service as document <u>7</u> (slk). (Entered: 01/22/2013)
01/22/2013	<u>5</u>	SUMMONS returned executed on Kathleen Sebelius, US Attorney and US Attorney General; service upon defendant, Kathleen Sebelius complete on 1/15/2013, answer due 3/18/2013 (Donnell, Douglas) Modified text on 1/23/2013 (mkc). (Entered: 01/22/2013)
01/22/2013	<u>6</u>	SUMMONS returned executed on United States Department of Health and Human Services, US Attorney and US Attorney General; service upon defendant, United

		States Department of Health and Human Services complete on 1/15/2013, answer due 3/18/2013 (Donnell, Douglas) Modified text on 1/23/2013 (mkc). (Entered: 01/22/2013)
01/22/2013	<u>7</u>	SUMMONS returned executed on Hilda L. Solis, US Attorney and US Attorney General; service upon defendant, Hilda L. Solis complete on 1/15/2013, answer due 3/18/2013 (Donnell, Douglas) Modified text on 1/23/2013 (mkc). (Entered: 01/22/2013)
01/22/2013	<u>8</u>	SUPPLEMENT re Summons Returned Executed as to USA <u>5</u> , Summons Returned Executed as to USA <u>7</u> , Summons Returned Executed as to USA <u>6</u> <i>Service on U.S. Attorney General in Grand Rapids</i> by plaintiff Infrastructure Alternatives, Inc. (Donnell, Douglas) (Entered: 01/22/2013)
01/22/2013	<u>9</u>	SUPPLEMENT re Summons Returned Executed as to USA <u>5</u> , Summons Returned Executed as to USA <u>7</u> , Summons Returned Executed as to USA <u>6</u> <i>Affidavit of Service on Office of the Attorney General, Washington, DC</i> by plaintiff Infrastructure Alternatives, Inc. (Donnell, Douglas) (Entered: 01/22/2013)
02/01/2013	<u>10</u>	SUMMONS returned executed on United States Department of Labor, US Attorney and US Attorney General; service upon defendant, United States Department of Labor complete on 1/15/2013, answer due 3/18/2013 (Donnell, Douglas) (Entered: 02/01/2013)
02/01/2013	<u>11</u>	SUMMONS returned executed on Timothy Geithner, US Attorney and US Attorney General; service upon defendant, Timothy Geithner complete on 1/15/2013, answer due 3/18/2013 (Donnell, Douglas) (Entered: 02/01/2013)
02/01/2013	<u>12</u>	SUMMONS returned executed on United States Department of Treasury, US Attorney and US Attorney General; service upon defendant, United States Department of Treasury complete on 1/15/2013, answer due 3/18/2013 (Donnell, Douglas) (Entered: 02/01/2013)
03/18/2013	<u>13</u>	MOTION to dismiss for failure to state a claim by defendants Timothy Geithner, Kathleen Sebelius, Hilda L. Solis, United States Department of Health and Human Services, United States Department of Labor, United States Department of Treasury; (Pollack, Michael) (Entered: 03/18/2013)
03/18/2013	<u>14</u>	BRIEF in support of MOTION to dismiss for failure to state a claim <u>13</u> filed by Timothy Geithner, Kathleen Sebelius, Hilda L. Solis, United States Department of Health and Human Services, United States Department of Labor, United States Department of Treasury (Attachments: # <u>1</u> Exhibit 1 – Autocam Sixth Circuit Order, # <u>2</u> Exhibit 2 – Conestoga Third Circuit Order, # <u>3</u> Exhibit 3 – Articles of Incorporation)(Pollack, Michael) Modified text on 3/19/2013 (jem). (Entered: 03/18/2013)
03/19/2013	<u>15</u>	ORDER setting Rule 16 scheduling conference: Rule 16 scheduling conference is set for 5/6/2013 at 11:30 AM at 699 Federal Building, Grand Rapids, MI before Judge Robert J. Jonker; status report due by 5/1/2013 ; signed by Judge Robert J. Jonker (Judge Robert J. Jonker, mil) (Entered: 03/19/2013)
03/21/2013	<u>16</u>	MOTION for leave to file <i>Amicus Brief</i> with Brief in Support and Certificate of Service by amicus American Civil Liberties Union; (Attachments: # <u>1</u> Exhibit A – Proposed Brief)(Amiri, Brigitte) Modified text on 3/22/2013 (jem). (Entered: 03/21/2013)
04/15/2013	<u>17</u>	RESPONSE in opposition to MOTION to dismiss for failure to state a claim <u>13</u> filed by Infrastructure Alternatives, Inc. (Attachments: # <u>1</u> Exhibit A to Brief, # <u>2</u> Exhibit B to Brief, # <u>3</u> Exhibit C to Brief, # <u>4</u> Exhibit D to Brief, # <u>5</u> Exhibit E to Brief)(Donnell, Douglas) Modified text on 4/16/2013 (jem). (Entered: 04/15/2013)
04/29/2013	<u>18</u>	REPLY to response to motion <u>13</u> <i>to dismiss</i> filed by Timothy Geithner, Kathleen Sebelius, Hilda L. Solis, United States Department of Health and Human Services, United States Department of Labor, United States Department of Treasury (Pollack, Michael) (Entered: 04/29/2013)
05/01/2013	<u>19</u>	JOINT STATUS REPORT (Donnell, Douglas) (Entered: 05/01/2013)

05/06/2013	<u>20</u>	MINUTES of scheduling conference by telephone held before Judge Robert J. Jonker (Judge Robert J. Jonker, mil) (Entered: 05/06/2013)
05/06/2013	<u>21</u>	NOTICE re <u>17</u> <i>Request for Oral Argument Regarding Defendants' Motion to Dismiss</i> by plaintiff Infrastructure Alternatives, Inc. (Donnell, Douglas) (Entered: 05/06/2013)
05/08/2013	<u>22</u>	ORDER following 5/6/13 Rule 16 Conference ; signed by Judge Robert J. Jonker (Judge Robert J. Jonker, ymc) (Entered: 05/08/2013)
09/18/2013	<u>23</u>	ORDER: parties may show cause by September 27, 2013 ; signed by Judge Robert J. Jonker (Judge Robert J. Jonker, mil) (Entered: 09/18/2013)
09/27/2013	<u>24</u>	RESPONSE TO <u>23</u> <i>the Court's Order to Show Cause</i> filed by plaintiff Infrastructure Alternatives, Inc. (Donnell, Douglas) (Entered: 09/27/2013)
09/30/2013	<u>25</u>	ORDER: Plaintiffs' APA claim (Count IV) is dismissed without prejudice under Rule 41(a). The individual Plaintiffs' other claims (Counts I–III) are dismissed for lack of standing under the reasoning of the Court of Appeals in Autocam. Defendants' Motion to Dismiss under Rule 12(b)(6) is GRANTED as to the Corporate Plaintiff's claims in Counts I–III ; signed by Judge Robert J. Jonker (Judge Robert J. Jonker, ymc) (Entered: 09/30/2013)
09/30/2013	<u>26</u>	JUDGMENT in favor of Defendants against Plaintiffs dismissing Counts I–III with prejudice for failure to state a claim, and Count IV without prejudice under Rule 41(a). Judgment is further entered dismissing all claims of the individual Plaintiffs for lack of standing ; signed by Judge Robert J. Jonker (Judge Robert J. Jonker, ymc) (Entered: 09/30/2013)