

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

MERSINO MANAGEMENT COMPANY; KAREN A.)
MERSINO, Owner and Shareholder of Mersino)
Southwest, LLC and Mersino Enterprises, Inc.,)
and RODNEY A. MERSINO, Owner and Shareholder)
of Mersino Management Company, Global Pump)
Company, LLC and Mersino Dewatering, Inc.,)

Plaintiffs,)

v.)

KATHLEEN SEBELIUS, Secretary of the United States)
Department of Health and Human Services; UNITED)
STATES DEPARTMENT OF HEALTH AND)
HUMAN SERVICES; SETH D. HARRIS, Acting)
Secretary of the United States Department of Labor;)
UNITED STATES DEPARTMENT OF LABOR;)
JACK LEW, Secretary of the United States Department)
of the Treasury; and UNITED STATES)
DEPARTMENT OF THE TREASURY,)

Defendants.)

Case No. 13-cv-11296-PDB-RSW

PLAINTIFFS' MOTION FOR
TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION

Judge Paul Borman

Magistrate Judge R. Steven Whalen

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**PLAINTIFFS' MOTION FOR A TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION & BRIEF IN SUPPORT**

PLEASE TAKE NOTICE that at the earliest possible time for the court to hear this motion, Plaintiffs Mersino Management and Karen and Rodney Mersino (collectively "Plaintiffs"), by and through their undersigned counsel, hereby move this Court for a Temporary Restraining Order ("TRO") pursuant to Fed. R. Civ. P. 65(b)(1) and Local Rule 65.1 in order to prevent immediate irreparable injury to Plaintiffs' fundamental rights and interests. Subsequent to this Court's determination on Plaintiffs' Motion for a TRO and by way of this motion, Plaintiffs move for a Preliminary Injunction pursuant to Fed. R. Civ. P. 65(a) in order to prevent irreparable injury to Plaintiffs' fundamental rights and interests after the expiration of time or the Court's decision on the former part of this motion.

Plaintiffs rely upon the pleadings and papers of record, as well as their brief filed with this motion, and the declarations attached hereto. For the reasons set forth more fully below, Plaintiffs hereby request that this court enjoin the enforcement of Defendants' Health and Human Services Mandate (hereinafter "HHS Mandate" or "Mandate") which violates Plaintiffs' rights guaranteed by the First Amendment to the United States Constitution and the Religious Freedom Restoration Act of 1993, 107 Stat. 1488, as amended, 42 U.S.C. § 2000bb *et seq.* For the purposes of this request for a temporary restraining order and preliminary injunctive relief, the Plaintiffs focus solely on Claims I-III and V-VIII of their complaint; however, Plaintiffs do not forfeit any of the claims alleged in their complaint.

1. The purpose of injunctive relief in this case is to permit Plaintiffs to continue to provide insurance to their employees that does not violate Plaintiffs' constitutionally and statutorily granted right to free exercise of religion.

2. Without relief from this Court, the Plaintiffs will be irreparably harmed as the Plaintiffs' constitutional rights will be violated.

3. This motion requires immediate attention for the reasons set forth more fully below. Plaintiffs hereby request that this Court enjoin the enforcement of Defendants' Health and Human Services Mandate (hereinafter "HHS Mandate" or "mandate") which violates Plaintiffs' rights guaranteed by the First Amendment to the United States Constitution and the Religious Freedom Restoration Act of 1993, 107 Stat. 1488, as amended, 42 U.S.C. § 2000bb et seq.

4. Plaintiffs sincerely hold religious beliefs that disallow providing group health insurance with coverage for contraception and abortifacients.

5. Plaintiffs' group health plan never provided coverage for contraception and abortifacients.

6. On June 1, 2013, the HHS Mandate will begin to apply to Plaintiffs' group health plan this requiring the immediate attention of this Court.

7. On March 22, 2013, Plaintiffs filed their Complaint.

8. Plaintiffs served all Defendants with the Complaint.

9. Plaintiffs have made attempts to resolve this matter prior to seeking this relief from the Court.

10. Pursuant to Local Rule 7.1 and Local Rule 65.1, Plaintiffs sought concurrence in the relief requested by this Motion. Defendants through their counsel at the Department of

Justice, Civil Division, Federal Programs Branch, communicated that there would be no concurrence and a motion to the Court was necessary.

11. Plaintiffs' counsel has provided notice of this request through the Court's electronic filing system. Defendants' counsel has filed an appearance and receives filings through the Court's electronic filing system. The phone number for the Department of Justice, Civil Division, Federal Programs Branch is (202) 514-3367.

Respectfully submitted this 7th day of May, 2013.

Attorneys for Plaintiffs:

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s/ Erin Mersino

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CERTIFICATE OF SERVICE

I hereby certify that on May 7, 2013, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. I certify that a copy of the foregoing has been served by ordinary U.S. Mail upon all parties for whom counsel has not yet entered an appearance electronically: None

THOMAS MORE LAW CENTER

s/ Erin Mersino

Erin Mersino, Esq. (P70886)