

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

_____)	
MERSINO MANAGEMENT;)	
COMPANY, <i>et al.</i> ,)	Case No. 2:13-cv-11296
)	
Plaintiffs,)	Judge Paul D. Borman
)	
v.)	Magistrate Judge R. Steven Whalen
)	
KATHLEEN SEBELIUS, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

**JOINT MOTION TO STAY DISTRICT COURT
PROCEEDINGS PENDING APPEAL**

The parties jointly move this Court to enter an order staying further proceedings in this Court pending resolution of the pending appeal to the United States Court of Appeals for the Sixth Circuit of this Court's denial of plaintiffs' motion for a preliminary injunction. In support of this motion, the parties state as follows:

1. On July 11, 2013, this Court entered an opinion and order denying plaintiffs' motion for a temporary restraining order and preliminary injunction. *See* Opinion and Order Denying Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, ECF No. 29.

2. On July 11, 2013, plaintiffs appealed to the United States Court of Appeals to the Sixth Circuit this Court's order denying a temporary restraining order and preliminary injunction. *See* Notice of Appeal, ECF No. 30.

3. Defendants' response to plaintiffs' complaint is currently due on August 12, 2013. *See* Order Granting Motion for Extension of Time to Answer, ECF No. 14.

4. "[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes of its docket with economy of time and effort for itself, for counsel, and for litigants. How this can best be done calls for the exercise of judgment, which must weigh competing interests and maintain an even balance." *Landis v. N. Am. Co.*, 299 U.S. 248, 254-55 (1936). "Although the filing of an interlocutory appeal does not automatically stay proceedings in the district court, the district court has broad discretion to decide whether a stay is appropriate." *Ass'n of Irrigated Residents v. Fred Schakel Dairy*, 634 F. Supp. 2d 1081, 1094 (E.D. Cal. 2008).

5. Absent a stay of district court proceedings, defendants intend to move to dismiss the complaint under Federal Rule of Civil Procedure 12(b)(6). Defendants' intended motion to dismiss will raise legal issues regarding plaintiffs' RFRA and free exercise claims that are likely to be addressed by the Sixth Circuit in adjudicating the appeals of this Court's order denying plaintiffs' motion for a

temporary restraining order and preliminary injunction. The parties believe it would be inefficient to concurrently litigate these issues in both courts.

Accordingly, the parties respectfully request that this Court enter an order staying all district court proceedings pending a further order of this Court, or upon a motion to lift the stay filed by either party.

Respectfully submitted this 17th day of July, 2013,

/s/ Erin Mersino

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CERTIFICATE OF SERVICE

I certify that, on July 17, 2013, I electronically filed the foregoing paper with the Clerk of Court using the ECF system, which will send notification of such filing to the following:

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