

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Civil Action No. 5:12-cv-06744-MSG

CONESTOGA WOOD SPECIALITIES CORPORATION, a PA Corporation;  
NORMAN HAHN;  
NORMAN LEMAR HAHN; and  
ANTHONY H. HAHN

Plaintiffs,

v.

KATHLEEN SEBELIUS, in her official capacity as  
Secretary of the United States Department of Health and Human Services;  
HILDA SOLIS, in her official capacity as  
Secretary of the United States Department of Labor;  
TIMOTHY GEITHNER, in his official capacity as  
Secretary of the United States Department of the Treasury;  
UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES;  
UNITED STATES DEPARTMENT OF LABOR; and  
UNITED STATES DEPARTMENT OF THE TREASURY;

Defendants.

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**PRELIMINARY INJUNCTION ORDER (PROPOSED)**

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This matter having come before the Court on motion of Plaintiffs, and the Court having reviewed the pleadings filed in this case, having reviewed the statements and various arguments of counsel, and otherwise being sufficiently advised,

The Court DOES HEREBY FIND THAT:

1. The Individual Plaintiffs are several family members who own and operate Conestoga Wood Specialties Incorporated, a Pennsylvania corporation, which manufacture wood cabinets and wood specialty products.

2. Plaintiffs' Verified Complaint brings several statutory and constitutional claims against the Defendants and their requirement that Plaintiffs provide, as a part of their company funded employee health insurance plan, all methods approved by the FDA as contraception, including what Plaintiffs view as abortifacients, and related education and counseling.

3. Defendants' mandated requirement to provide these services contained in the combined following authorities: 42 U.S.C. § 300gg-13(a)(4), Pub. L. 111-148, § 1563(e)-(f), 75 Fed. Reg. 41726-60 (July 19, 2012), guidelines available at <http://www.hrsa.gov/womensguidelines/>, 76 Fed. Reg. 46621-26 (Aug. 3, 2011) and 77 Fed. Reg. 8725-30 (Fed. 15, 2012), as well as penalties found in 26 U.S.C. §§ 4980D & 4980H and 29 U.S.C. § 1132, and other provisions of PPACA or its implementing regulations that affect exemptions or other aspects of the Mandate. See, e.g., 76 Fed. Reg. at 46623 & n.4 (citing "grandfathering" exemption contained in 26 CFR 54.9815-1251T, 29 CFR 2590.715-1251 and 45 CFR 147.140 (75 FR 34538, June 17, 2010)).

4. Plaintiff's provision of the required coverage violates their sincerely held Mennonite religious beliefs, and will adversely impact them starting January 1, 2013, because Plaintiffs employee health insurance plan for the coming year will go into effect on January 1, 2013.

5. Plaintiffs filed a Motion for a Preliminary Injunction seeking to halt the applicability of Defendants' mandated insurance coverage provisions to their business.

Plaintiffs' Motion argues that Defendants' requirements violate the Religious Freedom Restoration Act (RFRA), 42 U.S.C. § 2000bb *et seq.*, the Free Exercise, Establishment, and Freedom of Speech Clauses of the First Amendment, the Due Process Clause of the Fifth Amendment and the Administrative Procedure Act.

6. Defendants' requirements on Plaintiffs substantially burden their exercise of their religious beliefs.

7. Defendants' requirements on Plaintiffs are not justified by a compelling interest.

8. Defendants' requirements on Plaintiffs are not the least restrictive means to achieve a compelling government interest.

9. Defendants' requirements are not religiously neutral or generally applicable.

10. Defendants' requirements discriminate among religious and among religious beliefs and the exercise thereof.

11. Defendants' requirements compel speech that Plaintiffs find morally objectionable.

12. Defendants' requirements are unconstitutionally vague and overbroad.

13. Defendants' requirements are agency actions not taken in accordance with the enacting procedures as required by law, are arbitrary and capricious, and violate the Weldon Amendment of the Consolidated Security, Disaster Assistance, and Continuing Appropriation Act of 2009, Public Law 110 329, Div. A. Sec. 101, 122 Stat. 3574, 3575 (Sept. 30, 2008) and 42 U.S.C. § 300a-7(d).

14. Plaintiffs have shown a high probability of success on the merits of their claims under RFRA, the First Amendment in relation to religious objectors, the Fifth Amendment and the Administrative Procedures Act.

15. Defendants' requirements as applicable to Plaintiffs violate RFRA and the Free Exercise, Establishment, and Freedom of Speech Clauses of the First Amendment, the Due Process Clause of the Fifth Amendment to the United States Constitution, and the Administrative Procedure Act.

16. Plaintiffs will suffer irreparable harm in the absence of the preliminary injunctive relief specified herein.

17. The balance of equities strongly tips in favor of Plaintiffs.

18. Preliminary injunctive relief as specified herein is in the public interest.

Accordingly, IT IS ORDERED THAT:

1. Plaintiffs Motion for Preliminary Injunction should be and hereby is GRANTED;
2. Defendants, their agents, officers, and employees are hereby ENJOINED from any application or enforcement of their mandated requirements pursuant to 42 U.S.C. § 300gg-13(a)(4), due to any failure by Plaintiffs, their group health insurance plan, or health insurance carrier to offer group or individual health insurance coverage to their employees that provides contraception or related education and counseling, in violation of Plaintiff's strongly held religious beliefs, in their employee health insurance plan for the plan year commencing January 1, 2013.

3. No bond shall be required as this injunction issues in order to protect Plaintiff's constitutional and statutory rights.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge Mitchell S. Goldberg  
United States District Court  
For the Eastern District of Pennsylvania

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