

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

EAST TEXAS BAPTIST UNIVERSITY,
and
HOUSTON BAPTIST UNIVERSITY,

Plaintiffs,

v.

KATHLEEN SEBELIUS, *et al.*

Defendants.

Civil No. 12-3009
**Plaintiffs' Combined Motion for
Partial Summary Judgment and
Preliminary Injunction**

Pursuant to Federal Rule of Civil Procedure 56, Plaintiffs East Texas Baptist University and Houston Baptist University hereby move for partial summary judgment. Because there is no genuine dispute as to any fact material to Plaintiffs' claims enumerated in the accompanying memorandum of law, Plaintiffs are entitled to summary judgment as a matter of law, and respectfully request that this Court grant summary judgment in their favor on counts I, II, III, IV, V, VII and IX of their first amended complaint. *See* Fed. R. Civ. P. 56(a).

Further, Pursuant to Federal Rule of Civil Procedure 65, Plaintiffs hereby move for a preliminary injunction for the reasons set forth in the accompanying memorandum of law. Pursuant to local rule 7.1D, Plaintiffs' counsel has conferred with counsel for Defendants concerning this motion and Defendants do not consent to the motion.

Pursuant to local rule 7.5 A, and pursuant to this Court's order, Dkt. 60, Plaintiffs hereby request oral argument on this motion on October 25, 2013.

Respectfully submitted,

s/Eric C. Rassbach

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Dated: August 30, 2013

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on August 30, 2013, the foregoing motion was served on all counsel of record via the Court's electronic case filing (ECF) system.

/s/ Eric C. Rassbach
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[PROPOSED] ORDER

Having considered Plaintiffs' motion for partial summary judgment and preliminary injunction in the above-captioned case, and this Court having reviewed the papers filed by the parties and heard arguments from counsel, the Court hereby GRANTS Plaintiffs' motion and ORDERS that summary judgment be entered in favor of Plaintiffs on Counts I, II, III, IV, V, VII, and IX of their first amended complaint.

Moreover, the Defendants, their agents, officers, and employees, and others working in concert with them are hereby preliminarily ENJOINED from any application or enforcement of the requirements imposed in 42 U.S.C. § 300gg-13(a)(4), Pub. L. 111-148, §1563(e)-(f), the application of the penalties found in 26 U.S.C. §§ 4980D & 4980H and 29 U.S.C. § 1132, and any other requirement that Plaintiffs or those acting in concert with them (including specifically Plaintiffs' third

party administrators, relevant church plan, or issuers) provide, facilitate, contract for, otherwise enable access to the objectionable drugs or devices.

Date: _____

LEE H. ROSENTHAL
UNITED STATES DISTRICT JUDGE