

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

THOMAS MONAGHAN, and
DOMINO'S FARMS CORP.,

Plaintiffs,

Case No. 12-15488
Hon. Lawrence P. Zatkoff

v.

KATHLEEN SEBELIUS, *et al*,

Defendants.

OPINION AND ORDER

AT A SESSION of said Court, held in the United States Courthouse,
in the City of Port Huron, State of Michigan, on December 20, 2013

PRESENT: THE HONORABLE LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

I. INTRODUCTION

This matter is before the Court on Plaintiffs Domino's Farms Corporation and Thomas Monaghan's Motion to remove the stay and reopen proceedings for a limited purpose [dkt 46]. The motion has been fully briefed. The Court finds that the facts and legal arguments are adequately presented in the parties' papers such that the decision process would not be significantly aided by oral argument. Therefore, pursuant to E.D. Mich. L.R. 7.1(f)(2), it is hereby ORDERED that the motion be resolved on the briefs submitted, without oral argument. For the following reasons, Plaintiffs' motion is DENIED.

II. BACKGROUND

On December 24, 2012, Plaintiffs commenced this action seeking a Preliminary Injunction and Permanent Injunction enjoining Defendants from implementing and enforcing certain regulations promulgated under the Affordable Care Act (“ACA”) [dkt 1]. On December 30, 2012, the Court granted Plaintiffs’ motion for a temporary restraining order from the Mandate [dkt 17]. On March 14, 2013, the Court granted Plaintiffs’ Preliminary Injunction [dkt 39]. On May 13, 2013, Defendants filed a notice of appeal [dkt 41]. Defendants subsequently filed a motion to stay proceedings pending appeal, which Plaintiffs opposed [dkt 43, 44]. The Court granted Defendant’s motion to stay proceedings on June 26, 2013, “pending the Sixth Circuit’s decision in *Autocam [Corp. v. Sebelius]*, No 12-2673 (W.D. Mich.), or *Weingartz [Supply Co. v. Sebelius]*, No. 13-1093 (E.D. Mich.) (Cleland)”, after which this proceeding shall resume upon motion by either party” [dkt 45].

Plaintiffs request that this Court remove the stay issued on June 26, 2013, so that they may amend their complaint by adding five potential plaintiffs: The Ave Marie Foundation, Ave Marie Communications, Domino’s Farm Petting Farms, Rhodora J. Donahue Academy, Inc., and the Thomas More Law Center (the “Additional Plaintiffs”). According to the current Plaintiffs, all Additional Plaintiffs are nonprofit religious organizations founded and funded by the current Plaintiffs. Plaintiffs allege the Additional Plaintiffs were not included in the original complaint because a “temporary safe harbor” existed exempting such nonprofit religious corporations from complying with the Preventative Health Services coverage provision (the “Provision”) in the Women’s Health Amendment to the ACA. Plaintiffs allege this safe harbor was terminated on August 1, 2013, thus making the claims of the Additional Plaintiffs ripe for review.

Defendants assert that the stays should not be lifted, pointing out that Plaintiffs do not seek to lift the current stay for the reasons included in the Court’s Order. Instead, Defendants

point out that the claims brought by the Additional Plaintiffs would require the Court to address entirely new claims based on an entirely different set of regulations as they apply to an entirely different set of parties. Defendants assert that the different parties and different legal issues presented by the Additional Plaintiffs would best be heard in a separate action.

III. ANALYSIS

“[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.” *Landis v. N. Am. Co.*, 299 U.S. 248, 254, (1936). Likewise, the power to lift a stay for limited purposes is solely within the discretion of the district court. *See, generally, Equipments De Transformation IMAC v. Anheuser-Busch Cos.*, 2008 WL 3852240 (E.D. Mich. Aug. 18, 2008); *Ryan v. Gonzales*, 133 S.Ct. 696, 708 (2013) (“We do not presume that district courts need unsolicited advice from us on how to manage their dockets.”).

Defendants argue that the serious degree of variance in the claims raised by the current Plaintiffs and Additional Plaintiffs—along with the merit behind each claim—warrants denying Plaintiffs’ motion and keeping the current stay in place. The Court agrees. The current Plaintiffs would not suffer any prejudice if the stay were to remain in place. The Preliminary Injunction this Court entered protects the current Plaintiffs from enforcement of the regulations they challenge. Further, Plaintiffs’ assertion that the Additional Plaintiffs’ claims are now ripe because the “temporary safe harbor” has been lifted completely ignores that the temporary safe harbor was replaced with a different, permanent safe harbor exemption for nonprofit religious organizations. As the permanent safe harbor exemption exists only for nonprofit religious organizations—such as the Additional Plaintiffs—the analysis required for them will be completely different than that of the current Plaintiffs. As such, the differences between the two

sets of parties and issues are vast: addressing whether one regulation in the ACA infringes upon a secular, for-profit corporation's religious freedoms is very different than whether the permanent safe harbor exemption presented by the ACA for nonprofit, religious organizations also infringes upon religious freedoms.

Additionally, the Court granted the stay for the purpose of waiting for the Sixth Circuit to issue a ruling in two similar ACA cases involving secular for-profit companies. The Sixth Circuit's ruling regarding secular for-profit companies will not be binding on or govern the Additional Plaintiffs or their claims. Plaintiffs acknowledge as much in their motion, stating that: "[The ACA's] additional regulations [concerning nonprofit religious corporations] are separate from the Court's original analysis regarding whether a stay should currently halt this litigation."

Finally, the Court finds that the stark differences presented by the claims of the Additional Plaintiffs, as compared with the claims of the current Plaintiffs, may—and likely would—create a scenario where the Court would be proceeding with part of the case while leaving the rest of it behind, resulting in a *de facto* bifurcation of claims.

Therefore, although it is within the discretion of the Court to grant removal of a stay, for the reasons set forth above, the Court finds that the removal of the stay is not warranted in this case is not warranted in this case.

IV. CONCLUSION

Accordingly, for the reasons set forth above, IT IS HEREBY ORDERED that Plaintiffs' motion to remove the stay and reopen proceedings for a limited purpose [dkt 46] is DENIED.

IT IS SO ORDERED.

S/Lawrence P. Zatkoff
HON. LAWRENCE P. ZATKOFF
U.S. DISTRICT COURT

Dated: December 20, 2013