

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF RHODE ISLAND

JOHN DOE, an individual resident of
Rhode Island,

Plaintiff

v.

Civil Action No. 1:15-cv-00022

SYLVIA BURWELL, in her official
capacity as Secretary of the United States
Department of Health and Human Services;
THOMAS PEREZ, in his official capacity
as Secretary of the United States
Department of Labor; JACOB J. LEW, in
his official capacity as Secretary of the
United States Department of the Treasury;
KATHERINE ARCHULETA, in her official
capacity as Director of the Office of
Personnel Management; UNITED STATES
DEPARTMENT OF HEALTH AND
HUMAN SERVICES; UNITED STATES
DEPARTMENT OF LABOR; UNITED
STATES DEPARTMENT OF THE
TREASURY; and OFFICE OF
PERSONNEL MANAGEMENT;
HEALTH SOURCE RHODE ISLAND; and
ANYA RADER WALLACK, in her
official capacity as Director of Health
Source Rhode Island,

Defendants

MOTION FOR PRELIMINARY
INJUNCTION

MOTION FOR PRELIMINARY INJUNCTION

Pursuant to Fed. R. Civ. P. 65 and LR Cv. 7, Plaintiff John Doe, by and through counsel,
hereby moves this Court to enter a preliminary injunction, and states as follows:

1. Doe requests a preliminary injunction against Defendants, ordering them not to apply or enforce against him 45 C.F.R. § 156.280(e)(ii)(3) and 42 U.S.C. § 18023(b)(1)(B)(i)(II) (“the abortion surcharge mandate”), which require Doe to directly pay for others’ elective abortions; 42 U.S.C. 5000A(b)(1) (“the individual mandate”), which imposes fines on Doe because he is unable to obtain a plan through Health Source Rhode Island without violating his religious convictions against paying expressly for others’ abortions, and from otherwise enforcing the Affordable Care Act (“ACA”) and Health Source Rhode Island so as to withhold benefits from and punish Doe because of his religious beliefs against enabling and paying for others’ elective abortions.

2. Doe respectfully requests a decision on this motion prior to February 15, 2015. The enrollment period for Health Source Rhode Island terminates on February 15, 2015. Thus, a decision prior to that date is necessary to permit Defendants to implement any order from this Court and to permit Doe the time to make necessary health insurance decisions before the enrollment period for the 2015 year concludes.

3. If injunctive relief is not afforded in advance of February 15, 2015 Doe will be forced to choose between (a) following his conscience, foregoing health insurance in violation of his religious convictions, and suffering substantial financial penalties; and (b) directly paying for the destruction of human life in transgression of his sincerely held religious beliefs. Foregoing health insurance in order to avoid directly funding elective abortions in violation of his religious beliefs could have serious health and financial consequences for Doe.

4. As set forth in the accompanying memorandum of law, Doe is very likely to succeed on the merits of his claims under the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb *et seq.* (RFRA), the Rhode Island Religious Freedom Restoration Act, R.I. Gen. Laws

42-80.1-2 (RIRFRA), and the First Amendment to the U.S. Constitution. Requiring Doe to pay a separate fee used exclusively for others' elective abortions as a condition of obtaining a health insurance plan and the subsidies for such a plan to which the ACA entitles him and imposing substantial fines on him if he refuses to purchase such a plan substantially burdens his ability to exercise his religious beliefs. No compelling interest justifies these burdens on Doe's religious exercise, and other, less restrictive means of pursuing any legitimate interests are available to Defendants.

5. Without injunctive relief, Doe and the public interest will be irreparably harmed. Defendants will suffer no measurable injury if the injunction is granted, and thus the balancing of harms plainly favors Doe.

6. As factual support for this motion, Doe rests upon the Verified Complaint. As legal support, Doe submits the attached Memorandum of Law.

Respectfully submitted this 21st day of January, 2015.

Attorneys for Plaintiff:

/s/ Joe Larisa_____

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*Admission *pro hac vice* pending
** *Pro hac vice* application to follow

Certificate of Service

I hereby certify that on January 22, 2014, I electronically filed the foregoing motion and the memorandum in support of this motion with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record registered to receive electronic filings. I have also served the foregoing by First Class U.S. Mail on the following:

Sylvia Burwell
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Eric Holder, United States Attorney General*
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Peter F. Neronha*
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*Non-defendants. Copies served pursuant to Fed. R. Civ. P. 4(i)

I have served the following by Fed Ex:

Health Source Rhode Island
70 Royal Little Drive
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Anya Radar Wallack
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s/ Joseph Larisa