

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

STATE OF INDIANA, *et al.*)
)
 Plaintiffs,)
 v.) Case No. 1:13-cv-01612-WTL-TAB
)
 INTERNAL REVENUE SERVICE, *et al.*,)
)
 Defendants.)

DEFENDANTS' MOTION FOR ENLARGEMENT OF TIME

The defendants, Internal Revenue Service; United States Department of Treasury; United States Department of Health and Human Services; United States Department of Labor; John Koskinen, in his official capacity as Commissioner of Internal Revenue; Jacob Lew, in his official capacity as Secretary of the Treasury; Kathleen Sebelius, in her official capacity as Secretary of Health and Human Services; and Thomas Perez, in his official capacity as Secretary of Labor, through the undersigned counsel, hereby respectfully request an enlargement of time of fourteen days, to and including May 28, 2014, for the filing of their reply brief in support of their cross-motion for summary judgment. The plaintiffs oppose this motion. In support of this motion, the defendants state as follows:

1. The plaintiffs filed their amended complaint in this action on December 9, 2013. (ECF 22.)
2. The defendants filed a motion to dismiss the amended complaint on January 31, 2014. (ECF 36.) The motion to dismiss is fully briefed.
3. The plaintiffs filed separate motions for summary judgment on March 5, 2014. (ECF 44, ECF 46.)

4. The defendants filed their cross-motion for summary judgment on April 16, 2014. (ECF 61.)

5. The plaintiffs filed separate briefs in opposition to the defendants' cross-motion for summary judgment and in reply in support of their respective summary judgment motions, on April 30, 2014. (ECF 63, ECF 65.) The State of Indiana filed a brief that is 35 pages in length. (ECF 65.) The remaining plaintiffs, the School Corporations, filed a brief that is 30 pages in length. (ECF 63.)

6. Absent an extension, the defendants' reply brief would be due on May 14, 2014. (ECF 52.) The defendants will require an enlargement of time of fourteen days, until May 28, 2014, in which to prepare their reply brief, due to unavoidable conflicts in the schedule of the undersigned counsel for the defendants. (a) The undersigned counsel was responsible for the preparation and filing on May 2, 2014, of the government's 60-page omnibus reply brief in support of its motions to dismiss or for summary judgment in four coordinated actions, *Perry Capital, LLC v. Lew*, No. 1:13-cv-1025-RCL (D.D.C.); *Fairholme Funds, Inc. v. FHFA, et al.*, No. 1:13-cv-1053-RCL (D.D.C.); *Arrowood Indem. Co. v. FNMA, et al.*, No. 1:13-cv-1439-RCL (D.D.C.); and *In re Fannie Mae/Freddie Mac Senior Preferred Stock Purchase Agreement Class Action Litigations*, No. 13-mc-1288-RCL (D.D.C.). (b) The undersigned counsel also assisted in the government's preparation for the presentation of oral argument, and appeared at the counsel table for the government on May 5, 2014, in *Ralls Corporation v. Committee on Foreign Investment in the United States*, No. 13-5315 (D.C. Cir.). (c) The undersigned counsel is also assisting in the government's preparation for the presentation of oral argument, and will appear at the counsel table for the government on May 14, 2014, in *David King, et al. v. Sebelius*, No. 14-1158 (4th Cir.). (d) The undersigned counsel is also responsible for the preparation and

filing of the defendants' reply brief in support of their summary judgment motion by May 19, 2014 in *State of Oklahoma v. Sebelius*, No. 6:11-cv-0030-RAW (E.D. Okla.), an earlier-filed action raising similar claims to those presented in this suit.

7. Due to these conflicting obligations, the defendants respectfully request an enlargement of time until May 28, to file their reply brief in support of their cross-motion for summary judgment in this action.

8. The undersigned counsel contacted counsel for the School Corporations, Andrew M. McNeil, Esquire, by e-mail on May 6, 2014. Mr. McNeil responded that that his clients and the State of Indiana oppose this request for an enlargement of time.

9. This motion is made in good faith and not for the purpose of delay.

WHEREFORE, the defendants hereby respectfully request a fourteen-day enlargement of time, to and including May 28, 2014, to file their reply brief in support of their cross-motion for summary judgment.

Dated: May 6, 2014

Respectfully submitted,

STUART F. DELERY
Assistant Attorney General

JOSEPH H. HOGSETT
United States Attorney
SHELESE WOODS
Assistant United States Attorney

/s/ Joel McElvain
SHEILA LIEBER
Deputy Branch Director
JOEL McELVAIN
Senior Trial Counsel
U.S. Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue, NW
Washington, D.C. 20530
(202) 514-2988
Joel.McElvain@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on May 6, 2014, a copy of the foregoing document was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

Ashley Tatman Harwel
ashley.harwel@atg.in.gov

Heather Hagan McVeigh
heather.mcveigh@atg.in.gov

Thomas M. Fisher
tom.fisher@atg.in.gov

Kenneth Alan Klukowski
kenklukowski@gmail.com

Andrew M. McNeil
amcneil@boselaw.com

John Zhi Huang
jhuang@boselaw.com

Winthrop James Hamilton
jhamilton@boselaw.com

/s/ Joel McElvain
JOEL McELVAIN
Senior Trial Counsel
U.S. Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue, NW
Washington, D.C. 20530
(202) 514-2988
Joel.McElvain@usdoj.gov

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ORDER

The Court, having reviewed the defendants’ motion for an enlargement of time, and being duly advised, hereby GRANTS the defendants’ motion and further ORDERS that the defendants may file their reply brief in support of their cross-motion for summary judgment on or before May 28, 2014.

IT IS SO ORDERED this ___ day of _____, 2014.

United States District Court
Southern District of Indiana