

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JACQUELINE HALBIG, <i>et al.</i> ,)	
)	
<i>Plaintiffs,</i>)	Civ. No. 13-623 (RWR)
)	
v.)	
)	
KATHLEEN SEBELIUS, <i>et al.</i> ,)	
)	
<i>Defendants.</i>)	

**PLAINTIFFS’ NOTICE WITH RESPECT TO
DEFENDANTS’ MOTION TO DEFER SUMMARY JUDGMENT BRIEFING
AND FOR EXTENSION OF TIME**

1. Under the Federal Rules of Civil Procedure and this Court’s Local Rules, Defendants’ response to Plaintiffs’ motion for summary judgment was due on June 20, 2013, and their answer or motion to dismiss was due yesterday. Having filed a motion to extend those deadlines—the former indefinitely and the latter until July 29, 2013—Defendants apparently believe they are no longer bound by them. But that motion was opposed by Plaintiffs and has not been acted upon by this Court. Accordingly, Defendants’ answer or motion to dismiss, and its opposition to summary judgment, are now *overdue*. Plaintiffs respectfully request that this Court therefore order Defendants to make both of those filings at once.

2. In a notice filed yesterday, Defendants argue that the Administration’s unilateral decision to postpone the Affordable Care Act’s employer-mandate until January 1, 2015, means that expedition of this matter is no longer necessary. (Dkt. 21) That is wrong. Defendants do not even *argue* that this postponement has any effect on the *individual* plaintiffs in this suit, who still face a January 1, 2014, deadline for purchasing comprehensive health coverage—if, but only if, the IRS regulation at issue here is valid. If summary judgment briefing is delayed, those individuals will therefore still need to file a motion for preliminary relief in the near future.

Moreover, the threat of massive financial liability caused by the IRS Rule, while now one year delayed, still imposes substantial current injury on the business plaintiffs, whose fiscal strength and financial planning are immediately impaired by that unlawful regulation. They, too, therefore require and deserve prompt relief from this Court.

3. In short, there was never any basis for excusing Defendants from explaining in writing why their regulation complies with the text of the Affordable Care Act, and there remains no such reason now. This Court should deny Defendants' motion and order Defendants to answer Plaintiffs' Complaint and oppose Plaintiffs' summary judgment motion immediately.

Dated: July 9, 2013

/s/ Michael A. Carvin
Michael A. Carvin (D.C. Bar No. 366784)
Jacob M. Roth (D.C. Bar No. 995090)
Jonathan Berry (*application for admission pending*)
JONES DAY
51 Louisiana Avenue NW
Washington, DC 20001
Phone: (202) 879-3939
Fax: (202) 626-1700

Attorneys for Plaintiffs