

**United States District Court, Northern District of Illinois**

Name of Assigned Judge or Magistrate Judge	Amy J. St. Eve	Sitting Judge if Other than Assigned Judge	
<b>CASE NUMBER</b>	12 C 6756	<b>DATE</b>	1/3/2013
<b>CASE TITLE</b>	Triune Health Group, Inc vs. United States Dept of Health & Human Services et al		

**DOCKET ENTRY TEXT**

The Court grants Plaintiffs' motion for a preliminary injunction [36].

■ [ For further details see text below.]

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**STATEMENT**

Before the Court is Plaintiffs' motion for a preliminary injunction. (R. 36, Inj. Mot.) Plaintiffs filed a memorandum of law supporting both their motion for preliminary injunction and in opposition to Defendants' motion to dismiss. (R. 37, Inj. Mem.) The Court addresses only the preliminary injunction at this time. For the following reasons, the Court grants Plaintiffs' motion.

**BACKGROUND**

"Plaintiffs[] Christopher and Mary Anne Yep are ardent and faithful adherents of the Roman Catholic religion." (R. 21, Amend. Compl. ¶ 2.) The Yeps own and control Plaintiff Triune Health Group, Inc., a for-profit corporation. (*Id.* ¶¶ 3, 12.) Triune is a corporation that specializes in facilitating the re-entry of injured workers into the workforce. (*Id.* ¶ 19.)

The 2010 Patient Protection and Affordable Care Act ("the PPACA") included regulations mandating that employers include in their group health benefit plans coverage for preventative care for women that Plaintiffs deem "wholly at odds with their religious and moral values and sincere religious beliefs and sacred commitments." (*Id.* ¶ 5); *see also* 42 U.S.C. § 300gg-13(a)(4). Plaintiffs specifically believe that abortion, contraception (including abortifacients), and sterilization are "gravely wrong and sinful." (*Id.* ¶ 33.) "Plaintiffs believe that providing their employees with coverage for drugs and services that facilitate such immoral practices constitutes cooperation with evil that violates the laws of God." (*Id.* ¶ 34.) Under the PPACA's mandate, however, Triune would be required to provide a group health plan covering the full range of Food and Drug Administration approved contraceptive methods, sterilization procedures, and to provide education and counseling with respect to these matters for all women with reproductive capacity. (*Id.* ¶ 40); *see also* 42 U.S.C. § 300gg-13(a)(4); 45 C.F.R. § 147.130.

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The PPACA provides exemptions for religious employers and exempts some organizations through a “grandfathering” provision, however, Triune does not qualify for any exemption. (*Id.* ¶¶ 43-45.) Triune’s health plan was due for renewal on January 1, 2013. (*Id.* ¶ 47.) According to Plaintiffs, they, therefore, must “either choose to comply with the federal mandate’s requirements in violation of their religious beliefs, or pay ruinous fines that would have a crippling impact on their business and force them to shut down.” (*Id.* ¶ 53.) As a result, Plaintiffs allege that the PPACA’s mandate violates the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb *et seq* (“RFRA”), the First and Fifth Amendments of the United States Constitution, and the Administrative Procedure Act, 5 U.S.C. § 701, *et seq.*

Triune’s current group health plan includes coverage for contraceptives, sterilization, and abortion. (Inj. Mem. at 9.) According to Plaintiffs, this coverage is an error and contrary to what Plaintiffs want based on their religious beliefs. (*Id.*) Plaintiffs have been unable to find a group healthcare policy that comports with both the PPACA and their religious beliefs. (*Id.* at 9-10.) Plaintiffs, therefore, seek an injunction from the PPACA’s mandate so that they may purchase an insurance policy that excludes coverage for drugs and services to which they object based on their religious convictions. (Amend. Compl. ¶ 48.)

### LEGAL STANDARD

“To obtain a preliminary injunction, the moving party must demonstrate a reasonable likelihood of success on the merits, no adequate remedy at law, and irreparable harm absent the injunction.” *Planned Parenthood of Ind., Inc. v. Comm’r of Ind. State Dept. Health*, 699 F.3d 962, 972 (7th Cir. 2012) (citing *Am. Civil Liberties Union of Ill. v. Alvarez*, 679 F.3d 583, 589-90 (7th Cir. 2012); *Christian Legal Soc’y v. Walker*, 453 F.3d 853, 859 (7th Cir. 2006); *Joelner v. Village of Washington Park, Ill.*, 378 F.3d 613, 619 (7th Cir. 2004)). “If the moving party makes this threshold showing, the court ‘weighs the factors against one another, assessing whether the balance of harms favors the moving party or whether the harm to the nonmoving party or the public is sufficiently weighty that the injunction should be denied.’” *Alvarez*, 679 F.3d at 589 (quoting *Ezell v. City of Chi.*, 651 F.3d 684, 694 (7th Cir. 2011)).

### ANALYSIS

The Seventh Circuit recently granted a preliminary injunction pending appeal in favor of a for-profit employer challenging the PPACA’s preventative care mandate on the same grounds as presented here. *See Korte et al. v. Sebelius et al.*, No. 12-3841 (7th Cir. Dec. 28, 2012). The plaintiffs in *Korte*, as here, challenge the PPACA under the RFRA, the First and Fifth Amendments, and the Administrative Procedure Act. Similar to Triune and the Yeps, the plaintiffs in *Korte* discovered this summer that the company’s health insurance plan covered women’s health services that contradict the owners’ deeply-held religious beliefs, and therefore sought an injunction from the application of the PPACA in order to enroll in a conscience-compliant plan on January 1, 2013. The Seventh Circuit concluded that the *Korte* plaintiffs established a reasonable likelihood of success on the merits and irreparable harm, with the balance of harms tipping in their favor. In light of this binding precedent, the Court grants Triune’s motion for a preliminary injunction.