No. 14-392

In the Supreme Court of the United States

UNIVERSITY OF NOTRE DAME,

Petitioner,

v.

SYLVIA MATTHEWS BURWELL, IN HER OFFICIAL CAPACITY AS SECRETARY OF THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, ET AL.,

Respondents.

v.

JANE DOE 1, JANE DOE 2, AND JANE DOE 3,

Intervenors.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

BRIEF *AMICUS CURIAE* OF THE BECKET FUND FOR RELIGIOUS LIBERTY IN SUPPORT OF PETITIONER

MARK L. RIENZI
Counsel of Record
HANNAH C. SMITH
DANIEL BLOMBERG
ADÈLE AUXIER KEIM
The Becket Fund for Religious Liberty
1200 New Hampshire Ave. NW, Ste. 700
Washington, DC 20036
mrienzi@becketfund.org
(202) 955-0095
Counsel for *Amicus Curiae*

QUESTION PRESENTED

Whether the judgment below should be vacated and remanded in light of *Burwell* v. *Hobby Lobby Stores, Inc.*, 134 S. Ct. 2751 (2014), and *Wheaton College* v. *Burwell*, 134 S. Ct. 2806 (2014).

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES **PAGE(S)**

STATUTES

REGULATIONS

OTHER AUTHORITIES

INTEREST OF THE *AMICUS*[1]

The Becket Fund for Religious Liberty is a non-profit, public-interest legal and educational institute that protects the free expression of all faiths. The Becket Fund has represented agnostics, Buddhists, Christians, Hindus, Jews, Muslims, Santeros, Sikhs, and Zoroastrians, among others, in lawsuits across the country and around the world.

The Becket Fund has substantial experience litigating religious liberty cases before this Court, including several cases involving the mandate at issue here. For example, the Becket Fund represented the religious claimants in *Little Sisters of the Poor* v. *Sebelius*, 134 S. Ct. 1022 (Jan. 24, 2014); *Burwell* v. *Hobby Lobby*, 134 S. Ct. 2751 (June 30, 2014); and *Wheaton College* v. *Burwell*, 134 S. Ct. 2806 (July 3, 2014). We have also recently represented the petitioners in *Hosanna-Tabor Lutheran Church and School* v. *EEOC*, 132 S. Ct. 694 (2012), and *Holt* v. *Hobbs*, No. 13-6827 (U.S. argued Oct. 7, 2014).

The Becket Fund also has substantial knowledge and experience concerning the current status of HHS Mandate litigation in the lower courts. The Becket Fund has represented 13 clients in 9 cases (including two class actions which together involve more than 650 religious ministries and two benefits providers), and maintains the HHS Information Central website

---

[1] No party's counsel authored any part of this brief. No person other than the *Amicus Curiae* contributed money intended to fund the preparation or submission of this brief. All parties have consented to the filing of this brief, and letters indicating consent are on file with the Clerk.

tracking all of the cases currently proceeding through the federal courts.[2]

The Becket Fund submits this brief to provide the Court with information about the mandate litigation proceeding through the lower courts and to explain how the Seventh Circuit decision below is out of step with the almost unanimous view of the lower courts.

ARGUMENT

I. The Petition Should Be Granted Because the Decision Below Creates Confusion and Conflict in the Lower Courts.

This case arises from the ongoing controversy surrounding the federal government's mandate that certain employers provide their employees with cost-free access to contraceptives, sterilizations, and abortion-inducing drugs and devices.[3] That controversy has generated more than 50 lawsuits, involving more than 120 religious ministries seeking judicial protection against the mandate.[4]

---

[2] See http://www.becketfund.org/hhsinformationcentral/ (last visited Nov. 5, 2014).

[3] See 42 U.S.C. 300gg-13(a)(4); HRSA, Women's Preventive Services, http://www.hrsa.gov/womensguidelines (last visited Nov. 5, 2014); see also 26 C.F.R. 54.9815-2713(a)(1)(iv); 29 C.F.R. 2590.715-2713(a)(1)(iv); 45 C.F.R. 147.130(a)(1)(iv).

[4] The controversy also generated 49 lawsuits by closely-held businesses objecting to the mandate. After this Court's decision in *Hobby Lobby*, the government has been agreeing to judgments against the mandate in those cases. See, *e.g.*, Order, *Conestoga Wood Specialties Co.* v. *Burwell*, No 5:12-cv-6744 (E.D. Pa. Oct. 2, 2014) (granting injunction).

The vast majority of plaintiffs have already received an injunction to protect them from the mandate while their litigation proceeds. Indeed, of the 36 non-profit religious ministry cases in which the question of preliminary relief has been decided, 33 have granted such relief and only three denied it.[5] The decision below is thus on the extremely short end of a split in the lower courts. Further, two of the three denials are accompanied by an injunction pending appeal that protects the ministries while they prosecute their case, meaning that the decision below is the only one in the country to leave a religious ministry without any protection against the mandate. See, *e.g.*, Order, *Mich. Catholic Conf.* v. *Sebelius*, No. 13-2713 (6th Cir. Dec. 31, 2013) (granting injunction pending appeal); Order, *Catholic Diocese of Nashville* v. *Sebelius*, No. 13-6640 (6th Cir. Dec. 31, 2013) (same). If the split is measured in plaintiffs rather than cases, the numbers are even more overwhelming: counting the three class action lawsuits, more than 750 non-profit plaintiffs have received protection, while only one has not.[6] The Seventh Circuit's decision below is an extreme outlier.

---

[5] See Addendum. Relief was also denied in *Media Research Ctr.* v. *Burwell*, No. 1:14-cv-379 (E.D. Va. July 3, 2014). But there, the plaintiff was not seeking protection from the mandate's accommodation scheme; rather, it sought to *participate* in the scheme.

[6] C.A. App. 172a, *Little Sisters of the Poor* v. *Burwell*, No. 13-1540 (10th Cir. Feb. 24, 2014) (estimating 473 potential class members); C.A. App. A165, *Reaching Souls Int'l* v. *Burwell*, No. 14-6028 (10th Cir. Apr. 14, 2014) (estimating 187 potential class members); see also Docket entry No. 1 at ¶ 42, *Catholic Benefits Association LCA* v. *Burwell*, No. 5:14-cv-00685 (W.D. Okla. July

The petitioner here seeks only modest relief—a grant/vacate/remand ("GVR") in light of *Hobby Lobby* and *Wheaton*. That relief would provide the lower courts in this case with the opportunity to consider petitioner's claims in light of this Court's recent decisions—which is the way similar claims will be considered for hundreds of other parties across the country. A GVR will also preserve this Court's resources by making it more likely that the Court's next possible encounter with the mandate will be in a merits case with full briefing and oral argument, rather than on another emergency application.

A. Leaving the Decision Below Intact Needlessly Wastes This Court's Resources by Generating Emergency Applications to This Court and the Courts of Appeals.

The decision below has had important negative consequences in other cases.[7] A GVR here would cabin and possibly eliminate those negative consequences, allowing the lower courts a fresh chance to consid-

---

1, 2014) (estimating 570 for-profit and non-profit Catholic organizations).

[7] There is only one other decision currently in force that denies protection to a religious ministry in these circumstances: the Sixth Circuit's decision in *Michigan Catholic Conference* v. *Burwell*, 755 F.3d 372 (6th Cir. June 11, 2014). That decision is heavily based on the decision at issue here. *Id.* at 387-89. And as noted above, the religious plaintiffs in *Michigan Catholic Conference* remain protected by an injunction pending appeal issued by the Sixth Circuit. Like *Notre Dame*, the *Michigan Catholic Conference* decision was issued before *Hobby Lobby* (in June 2014), before *Wheaton* (in July 2014), and before the government issued the new rule (in August 2014). The Sixth Circuit did not have the benefit of briefing or oral argument on these issues.

er the mandate post-*Hobby Lobby* and post-*Wheaton* and in light of the government's newest revision of the mandate. Such a result would potentially alleviate the need for future repeated emergency applications to this Court and to the courts of appeals.

Several lower courts have relied on the decision below in ways that have generated at least three emergency applications lodged with this Court earlier this year. In *Diocese of Cheyenne* v. *Burwell*, for example, the trial court relied on *Notre Dame* extensively in denying relief. *Diocese of Cheyenne* v. *Burwell*, 2014 WL 1911873 at *6-*10 (D. Wyo. May 13, 2014). On an emergency motion, the Tenth Circuit ultimately entered an injunction pending appeal on the basis of *Little Sisters of the Poor* v. *Sebelius*, but not before the diocese was forced to lodge an emergency application with Justice Sotomayor.[8] Although this Court did not act on the application before the Tenth Circuit entered its injunction, the resources of Court staff were still called upon, and largely because of the decision below.

In similar fashion, the trial court in *Eternal Word Television Network, Inc.* v. *Burwell* likewise relied on *Notre Dame* to deny relief, forcing EWTN to seek emergency relief from the Eleventh Circuit. 2014 WL 2739347, at *4 (S.D. Ala. June 17, 2014) (relying on

---

[8] See *Diocese of Cheyenne* v. *Burwell,* No. 14-8040 (10th Cir. June 30, 2014) (entering injunction pending appeal "[i]n light of the Supreme Court's ruling" in *Little Sisters of the Poor* v. *Sebelius*, 134 S. Ct. 1022 (2014)). The lodging of the emergency application was reported on scotusblog.com. See http://www.scotusblog.com/2014/06/round-2-on-birth-control-developing/ (last visited Nov. 5, 2014).

both *Notre Dame* and the Sixth Circuit's decision in *Michigan Catholic Conference* v. *Burwell*, 755 F.3d 372 (6th Cir. June 11, 2014), which itself relied on *Notre Dame*, *id.* at 387-89). On an emergency motion, the Eleventh Circuit entered an injunction protecting EWTN, but not before the ministry was forced to lodge an emergency application with Justice Thomas.[9]

And it was also lower court reliance on the *Notre Dame* decision that generated the emergency application by Wheaton College that this Court granted on July 3, 2014. The trial court in *Wheaton College*, for example, would not grant even a short injunction to allow for briefing about the impact of *Hobby Lobby* because "nothing in the Supreme Court's ruling expressly overrules or abrogates *Notre Dame*, which thus remains binding on this Court." Docket entry No. 72, *Wheaton Coll.* v. *Burwell*, No. 1:13-cv-08910 (N.D. Ill., June 30, 2014).[10] And although the Third, Tenth, and Eleventh Circuits had granted emergency relief in similar circumstances, the Seventh Circuit denied relief later that day "based on [its own] decision in *Notre Dame*." *Wheaton Coll.* v. *Burwell*, No. 14-2396 (7th Cir. June 30, 2014). The lower courts' reliance on *Notre Dame* in refusing to grant Wheaton

---

[9] See *Eternal Word Television Network, Inc.* v. *Sec'y, U.S. Dep't of Health & Human Servs.*, 756 F.3d 1339, 1340 (11th Cir. 2014) (entering injunction pending appeal "in light of the Supreme Court's decision" in *Hobby Lobby*); see also, *id.* at 1347 (Pryor, J., concurring) (dismissing *Notre Dame* and *Michigan Catholic Conference* as "wholly unpersuasive"). *Amicus* represents the plaintiff in *Eternal Word*.

[10] *Amicus* represents the plaintiff in *Wheaton College*.

even temporary relief thus forced Wheaton to seek emergency relief from this Court immediately after *Hobby Lobby*.[11]

The decision below has thus had consequences reaching beyond the parties. It has had an impact on not only the substantive rights of other parties but also the manner and pace at which this Court and the courts of appeal have been forced to address these important issues, generating three emergency applications in this Court and four in the courts of appeals. A GVR would thus reduce the likelihood of such emergency motions in the future.

B. A GVR Would Give the Lower Courts a Chance to Reach a Post-*Hobby Lobby* and Post-*Wheaton* Consensus on an Issue of National Importance.

Vacating and remanding the decision below would create an opportunity for the lower courts to reach a post-*Hobby Lobby* and post-*Wheaton* consensus about the mandate in the context of religious ministries. As set forth above, the lower courts have already reached near-unanimity as to the prior version of the

---

[11] Although we have no knowledge whether they filed an emergency application to this Court, the plaintiffs in *Catholic Charities of the Archdiocese of Philadelphia* v. *Burwell* were likewise forced to seek emergency relief from the Third Circuit after a trial court had relied heavily on *Notre Dame* and *Michigan Catholic Conference*. *See* 2014 WL 2892502 at *6-*7 (E.D. Pa. June 26, 2014). The Third Circuit granted the plaintiffs' emergency motion for injunction pending appeal on June 28, 2014, thus obviating the need for an emergency application to this Court. See Order, *Catholic Charities of the Archdiocese of Phila.* v. *Burwell*, No. 14-3126 (3d Cir. June 28, 2014).

mandate. It is thus possible that, without the Seventh Circuit's decision below to lead them astray, the lower courts will coalesce around a resolution that will reduce the likelihood that this Court will need to intervene again.

Even if the lower courts do not arrive at a consensus conclusion, a GVR here would be beneficial. A GVR would make it more likely that the Court could decide in the future to address these issues in a merits case with full briefing and argument, rather than in high-stakes emergency petitions.

Furthermore, the decision below addresses an issue of national importance. This is true in two respects. First, the mandate at issue violates both an important federal civil rights law (RFRA) and the First Amendment's Free Exercise and Establishment Clauses. Indeed, when seeking certiorari in *Hobby Lobby*, the government acknowledged that the proper application of RFRA to the mandate in the context of a closely-held business "presented [a question] of exceptional importance." Pet. at 15, *Burwell* v. *Hobby Lobby Stores, Inc.*, No. 13-354 (Sept. 19, 2013). That question is at least as important in the context of religious ministries, and particularly where the government is claiming the authority to pick and choose among religious institutions, deeming some worthy of a "religious employer" exemption, and forcing others to violate their religion by complying with the "accommodation."

The decision below is important in another respect. The Seventh Circuit's error is forcing Notre Dame, on pain of crushing fines, to violate its religion and contradict its public witness to its Catholic faith. The First Amendment requires "special solicitude" for

the autonomy of religious ministries, *Hosanna-Tabor*, 132 S. Ct. at 697, 706, 712-13, in large part because such institutions provide a "critical buffer" between the individual and the power of the state, *id.* at 712 (Alito, J., concurring) (quoting *Roberts* v. *U.S. Jaycees*, 468 U.S. 609, 619 (1984)). The Seventh Circuit's early and erroneous decision—made without the benefit of this Court's *Hobby Lobby* and *Wheaton* opinions and made in the context of a version of the mandate the government has since abandoned—should not be left in place to either coerce Notre Dame or distort other courts' analysis of the important questions at issue in these cases.

II. If Further Consideration of the Mandate is Warranted, Promising Vehicles for Final Resolution Are About to be Argued in the Courts of Appeals.

If the Court determines that full merits consideration of a religious ministry mandate case is warranted, promising vehicles will soon be argued in several courts of appeal. In each case, the court of appeals will have the benefit of both briefing and oral argument after *Hobby Lobby*, *Wheaton*, and the government's new rule. In particular:

- The Third Circuit is going to hear oral arguments in three cases on November 21, 2014. *Geneva Coll.* v. *Sec'y, U.S. Dep't of Health & Human Servs.*, No. 14-1374 (3d Cir.); *Zubik* v. *Sec'y, U.S. Dep't of Health & Human Servs.*, No. 14-1377 (3d Cir.); *Persico* v. *Sec'y, U.S. Dep't of Health & Human Servs.*, No. 14-1376 (3d Cir.). The parties have filed supplemental briefs addressing *Hobby Lobby*, *Wheaton*, and the new rule.

- The Seventh Circuit is set to hear oral argument in two cases on December 3, 2014. *Diocese of Fort Wayne-S. Bend, Inc.* v. *Burwell*, No. 14-1430 (7th Cir.); *Grace Sch.* v. *Burwell*, No. 14-1431 (7th Cir.). The parties have filed a joint supplemental brief addressing *Hobby Lobby* and *Wheaton*.
- The Eighth Circuit is likely to hear oral arguments in two appeals sometime in December. *Dordt Coll.* v. *Burwell*, No. 14-2726 (8th Cir.); *Sharpe Holdings* v. *U.S. Dep't of Health & Human Servs.,* No. 14-1507 (8th Cir.). The parties have filed briefs addressing *Hobby Lobby*, *Wheaton*, and the new rule.
- The Tenth Circuit has set oral arguments for December 8, 2014 in three cases—*Little Sisters of the Poor* v. *Burwell*, No. 13-1540 (10th Cir.); *Southern Nazarene University* v. *Burwell*, No. 14-6026 (10th Cir.); and *Reaching Souls* v. *Burwell*, No. 14-6028 (10th Cir.). *Little Sisters* and *Reaching Souls* are class actions involving hundreds of religious ministries and their benefits providers. The parties have filed supplemental briefs addressing *Hobby Lobby*, *Wheaton*, and the new rule. Furthermore, the government has asked the Tenth Circuit to proceed quickly.[12]

---

[12] *See* Suppl. Gov't Brief at 5, *Little Sisters of the Poor*, *et al.* v. *Burwell*, Nos. 13-1540, 14-6026, 14-6028 (10th Cir. Sept. 8, 2014) ("It is crucial that these appeals be resolved now. Because of the injunctions issued in these cases, the women employed by plaintiffs have been and continue to be denied access to contra-

- In the Eleventh Circuit, briefing is complete in *Eternal Word Television Network* v. *Secretary, United States Department of Health & Human Services*, No. 14-12696-CC (11th Cir.), with all parties having briefed the impact of *Hobby Lobby*, *Wheaton College,* and the new rule. Oral argument has been scheduled for the week of Feb. 2, 2015.
- In the Fifth Circuit, briefing is expected to be completed in four consolidated appeals in December. *E. Tex. Baptist Univ.* v. *Burwell*, No. 14-20112 (5th Cir.); *Univ. of Dallas* v. *Burwell*, No. 14-10241 (5th Cir.); *Diocese of Beaumont* v. *Burwell*, No. 14-40212 (5th Cir.); *Roman Catholic Diocese of Fort Worth* v. *Burwell*, No. 14-10661 (5th Cir.). The parties will then await an argument date.[13]
- In the D.C. Circuit, oral argument was held prior to *Hobby Lobby* and *Wheaton College* in the *Priests for Life* and *Archdiocese of Washington* cases. *Priests for Life* v. *U.S. Dep't of Health & Human Servs.*, No. 13–5368 (D.C. Cir. oral arg. held May 8, 2014); *Roman Catholic Archbishop of Wash.* v. *Sebelius*, No. 13–5371 (D.C. Cir. oral arg. held May 8, 2014). The court ordered the parties to file supplemental briefing on these developments by mid-

---

ceptive coverage."). *Amicus* represents the plaintiffs in *Little Sisters* and *Reaching Souls*.

[13] *Amicus* represents the plaintiffs in *East Texas Baptist University*.

September, but has neither scheduled additional oral argument nor announced a decision.

In addition to these appeals, there are presently 23 other cases either going through the district courts or in the early stages of appeal. See Addendum. *Amicus* keeps a running update of developments in these cases at www.becketfund.org/hhsinfocentral.

CONCLUSION

The petition should be granted, and the decision below vacated and remanded in light of *Burwell* v. *Hobby Lobby Stores, Inc.*, 134 S. Ct. 2751 (2014), and *Wheaton College* v. *Burwell*, 134 S. Ct. 2806 (2014).

Respectfully submitted.

MARK L. RIENZI
Counsel of Record
HANNAH C. SMITH
DANIEL BLOMBERG
ADÈLE AUXIER KEIM
The Becket Fund
for Religious Liberty
1200 New Hampshire Ave.
NW, Ste. 700
Washington, DC 20036
mrienzi@becketfund.org
(202) 955-0095
Counsel for *Amicus Curiae*

NOVEMBER 2014

ADDENDUM

TABLE OF CONTENTS

CASES GRANTING INJUNCTIVE RELIEF

U.S. Supreme Court

1. *Wheaton Coll.* v. *Burwell*, 134 S. Ct. 2806 (2014) (granting emergency relief pending appeal).
2. *Little Sisters of the Poor* v. *Sebelius*, 134 S. Ct. 1022 (2014) (granting emergency relief pending appeal).

Courts of Appeals

1. *Catholic Charities, Archdiocese of Phila.* v. *Sec'y, Dep't of Health & Human Servs.*, No. 14-3126 (3d Cir. Sept. 2, 2014) (granting temporary injunction).
2. *Diocese of Cheyenne* v. *Burwell*, No. 14-8040 (10th Cir. June 30, 2014) (granting injunction pending appeal).
3. *Eternal Word Television Network, Inc.* v. *Sec'y, Dep't of Health & Human Servs.*, 756 F.3d 1339 (11th Cir. 2014) (granting injunction pending appeal).
4. *Roman Catholic Archbishop of Wash.* v. *Sebelius*, No. 13-5371 (D.C. Cir. Dec. 31, 2013) (granting injunction pending appeal).
5. *Priests for Life* v. *U.S. Dep't of Health & Human Servs.*, No. 13-5371 (D.C. Cir. Dec. 31, 2013) (granting injunction pending appeal).

District Courts

1. *Ave Maria Sch. of Law* v. *Burwell*, No. 2:13-cv-00795, 2014 WL 5471054 (M.D. Fla. Oct. 28, 2014) (granting preliminary injunction).
2. *Ave Maria Univ.* v. *Burwell*, No. 2:13-cv-00630, 2014 WL 5471048 (M.D. Fla. Oct. 28. 2014) (granting preliminary injunction).
3. *Brandt* v. *Burwell*, No. 2:14-cv-00681, 2014 WL 4170671 (W.D. Pa. Aug. 20, 2014) (granting permanent injunction).
4. *La. Coll.* v. *Burwell*, No. 1:12-cv-00463, 2014 WL 3970038 (W.D. La. Aug. 13, 2014) (granting permanent injunction).
5. *Archdiocese of St. Louis* v. *Burwell*, No. 4:13-cv-02300, 2014 WL 2945859 (E.D. Mo. June 30, 2014) (granting preliminary injunction).
6. *Colo. Christian Univ.* v. *Burwell*, No. 1:13-cv-02105 (D. Colo. June 20, 2014) (granting preliminary injunction).
7. *Catholic Benefits Ass'n LCA* v. *Sebelius*, No. 5:14-cv-00240, 2014 WL 2522357 (W.D. Okla. June 4, 2014) (granting preliminary injunction).
8. *Dordt Coll.* v. *Sebelius*, No. 5:13-cv-04100, 2014 WL 2115252 (N.D. Iowa May 21, 2014) (granting preliminary injunction).
9. *Union Univ.* v. *Sebelius*, No. 1:14-cv-01079 (W.D. Tenn. Apr. 29, 2014) (granting preliminary injunction until 30 days after the mandate issues in *Mich. Catholic Conference et al.* v. *Burwell*, 755 F.3d 372 (6th Cir. 2014)).

10. *Fellowship of Catholic Univ. Students* v. *Sebelius*, No. 1:13-cv-03263 (D. Colo. Apr. 23, 2014) (granting preliminary injunction).

11. *Dobson* v. *Sebelius*, No. 1:13-cv-03326, 2014 WL 1571967 (D. Colo. Apr. 17, 2014) (granting preliminary injunction).

12. *Roman Catholic Archdiocese of Atlanta* v. *Sebelius*, No. 1:12-cv-3489, 2014 WL 1256373 (N.D. Ga. Mar. 26, 2014) (granting permanent injunction).

13. *Ave Maria Found.* v. *Sebelius*, 991 F. Supp. 2d 957 (E.D. Mich. 2014) (granting preliminary injunction).

14. *Catholic Diocese of Beaumont* v. *Sebelius*, 10 F. Supp. 3d 725 (E.D. Tex. 2014) (granting permanent injunction).

15. *Roman Catholic Diocese of Fort Worth* v. *Sebelius*, No. 4:12-cv-00314 (N.D. Tex. Dec. 31, 2013) (granting preliminary injunction to the University of Dallas).

16. *Sharpe Holdings, Inc.* v. *U.S. Dep't of Health & Human Servs.*, No. 2:12-cv-92, 2013 WL 6858588 (E.D. Mo. Dec. 30, 2013) (granting preliminary injunction to religious non-profit parties CNS International Ministries and Heartland Christian College).

17. *E. Tex. Baptist Univ.* v. *Sebelius*, 988 F. Supp. 2d 743 (S.D. Tex. 2013) (granting preliminary injunction).

18. *Grace Sch.* v. *Sebelius,* 988 F. Supp. 2d 935 (N.D. Ind. 2013) (granting preliminary injunction).

19. *Diocese of Fort Wayne-S. Bend, Inc.* v. *Sebelius*, 988 F. Supp. 2d 958 (N.D. Ind. 2013) (granting preliminary injunction).

20. *Geneva Coll.* v. *Burwell*, 988 F. Supp. 2d 511 (W.D. Pen. 2013) (granting preliminary injunction).

21. *S. Nazarene Univ.* v. *Sebelius,* No. 5:13-cv-1015, 2013 WL 6804265 (W.D. Okla. Dec. 23, 2013) (granting preliminary injunction).

22. *Reaching Souls Int'l, Inc.* v. *Sebelius,* No. 5:13-cv-1092, 2013 WL 6804259 (W.D. Okla. Dec. 20, 2013) (granting preliminary injunction).

23. *Legatus* v. *Sebelius,* 988 F. Supp. 2d 794 (E.D. Mich. 2013) (granting preliminary injunction).

24. *Persico* v. *Sebelius*, No. 1:13-cv-303 (W.D. Pa. Dec. 20, 2013) (granting permanent injunction).

25. *Zubik* v. *Sebelius*, No. 2:13-cv-1459 (W.D. Pa. Dec. 20, 2013) (granting permanent injunction).

26. *Roman Catholic Archdiocese of N.Y.* v. *Sebelius*, 987 F. Supp. 2d 232 (E.D.N.Y. 2013) (granting permanent injunction).

CASES DENYING INJUNCTIVE RELIEF

Courts of Appeals

1. *Univ. of Notre Dame* v. *Sebelius,* 743 F.3d 547 (7th Cir. 2014).
2. *Mich. Catholic Conference et al.* v. *Burwell*, 755 F.3d 372 (6th Cir. 2014) (denying preliminary injunction in two consolidated appeals), but see *Mich. Catholic Conf.* v. *Sebelius*, No. 13-2713 (6th Cir. Dec. 31, 2013) (granting injunction protecting parties during the prosecution of the appeal); *Catholic Diocese of Nashville* v. *Sebelius*, No. 13-6640 (6th Cir. Dec. 31, 2013) (same).