

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 13-CV-01249-REB-KLM

JANEEN MEDINA, et al., individually, and on behalf of all others similarly situated, and on behalf of the CHI Plans,

Plaintiff,

v.

CATHOLIC HEALTH INITIATIVES, a Colorado corporation, et al.,

Defendants.

**DEFENDANTS' MOTION FOR ORAL ARGUMENT ON DEFENDANTS' OBJECTIONS
TO MAGISTRATE JUDGE'S RECOMMENDATION REGARDING PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY JUDGMENT**

Pursuant to Rule 7.1 of the Civil Rules of the United States District Court for the District of Colorado ("D.C.COLO.LCivR"), Defendants Catholic Health Initiatives ("CHI") and the twenty-two individual Defendants respectfully move this Court to hold oral argument regarding Defendants' Objections to Recommendation of Magistrate Judge, filed on July 30, 2014 (Dkt. 207) ("Defendants' Objections"). Defendants respectfully submit that hearing oral argument would materially assist the Court in ruling on Plaintiff's Motion for Partial Summary Judgment. The specific grounds for this motion are as follows:

On July 9, 2014, Magistrate Judge Mix issued her Recommendation of United States Magistrate Judge regarding Plaintiff's Motion for Partial Summary Judgment (Dkt. 199) (the "Recommendation"). The Recommendation recommends that Plaintiff's motion be granted in part and denied in part as to certain counts in Plaintiff's

Amended Complaint. Specifically, it suggests that the Court enter a declaratory judgment holding that the CHI Retirement Plan (“CHI Plan”) is not a church plan within the meaning of 29 U.S.C. § 1002(33), as well as a declaratory judgment holding that the CHI Plan must comply with ERISA, to the extent that the plan currently does not comply. Defendants’ Objections to the Recommendation were filed on July 30, 2014, and Plaintiff’s response was filed on August 13, 2014 (Dkt. 211).

The legal and factual issues raised in the Recommendation and in Defendants’ Objections are complex and potentially case dispositive. These legal and factual issues include, among others, whether a church plan under ERISA must be established by a church, whether the statute is ambiguous, whether CHI judicially admitted that it is not a church, whether the CHI Plan qualifies for the church plan exemption, whether certain agency rulings are entitled to deference, and whether the relief requested by the Plaintiff is appropriate. Should the Court hold that the CHI Plan does not qualify as a church plan as a matter of law, that ruling would largely dispose of the liability issues in this case. Furthermore, as explained in Defendants’ Objections, such a ruling could have severe consequences for CHI. Given the magnitude of the relief Plaintiff has requested, an order granting her partial summary judgment motion could destabilize CHI and force the company to consider whether it can afford a retirement plan for its employees at all.

Moreover, the stakes in this matter are high, not only for the Defendants in this lawsuit, but for sponsors of church plans across the country. A ruling that the CHI Plan does not qualify for the church plan exemption could cause uncertainty and turmoil for the plans of countless church-affiliated organizations that, like CHI, have relied on

some three decades of judicial and agency precedent holding that their plans are church plans. Indeed, the legal issues presented in Plaintiff's Motion for Partial Summary Judgment have led to a split among the federal district courts in other church plan lawsuits and, whichever party in this matter ultimately prevails, an appeal to the Tenth Circuit is almost certain. Thus, given the breadth and complexity of the issues raised by the Recommendation, and their importance to all involved, Defendants respectfully submit that the Court would benefit from hearing oral argument. Defendants therefore request that the Court hold oral argument regarding Defendants' Objections to the Recommendation before ruling on Plaintiff's Motion for Partial Summary Judgment.

DATED: August 18, 2014

Respectfully submitted,

/s/ Lars C. Golumbic

Lars C. Golumbic

Lonie A. Hassel

Sean C. Abouchedid

Ada E. Esedebe

GROOM LAW GROUP, CHARTERED

1701 Pennsylvania Avenue, N.W.

Suite 1200

Washington, D.C. 20006

Tel: (202) 861-6615

Fax: (202) 659-4503

Email: LGolumbic@groom.com

Email: LHassel@groom.com

Email: SAbouchedid@groom.com

Email: AEsedebe@groom.com

Counsel for Defendants

CERTIFICATE OF COMPLIANCE

Pursuant to D.C.COLO.LCivR 7.1(a), Defendants' counsel has conferred with Plaintiff's counsel concerning the relief requested herein. Plaintiff's counsel informed Defendants' counsel via email on August 4, 2014 that Plaintiff was not willing to consent to Defendants' request for oral argument.

DATED: August 18, 2014

Respectfully submitted,

/s/ Lars C. Golumbic

Lars C. Golumbic
Lonie A. Hassel
Sean C. Abouchedid
Ada E. Esedebe
GROOM LAW GROUP, CHARTERED
1701 Pennsylvania Avenue, N.W.
Suite 1200
Washington, D.C. 20006
Tel: (202) 861-6615
Fax: (202) 659-4503
Email: LGolumbic@groom.com
Email: LHassel@groom.com
Email: SAbouchedid@groom.com
Email: AEsedebe@groom.com
Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on August 18, 2014, a true and correct copy of the foregoing Defendants' Motion for Oral Argument on Defendants' Objections to Magistrate Judge's Recommendation Regarding Plaintiff's Motion for Partial Summary Judgment was sent via the CM/ECF system to the following:

Lynn Lincoln Sarko
Havila Unrein
Laura Gerber
KELLER ROHRBACK, L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101
Tel: (206) 623-1900 / Fax: (206) 623-3384
Email: lsarko@kellerrohrback.com
hunrein@kellerrohrback.com
lgerber@kellerrohrback.com

Ron Kilgard
Laurie Ashton
KELLER ROHRBACK, L.L.P.
3101 North Central Avenue, Suite 1400
Phoenix, AZ 85012
Tel: (602) 248-0088 / Fax: (602) 248- 2822
Email: rkilgard@kellerrohrback.com
lashton@kellerrohrback.com

Karen L. Handorf
Monya Bunch
COHEN MILSTEIN SELLERS & TOLL, PLLC
1100 New York Avenue, N.W.
Suite 500, West Tower
Washington, D.C. 20005
Tel: (202) 408-4600 / Fax: (202) 408-4699
Email: khandorf@cohenmilstein.com
mbunch@cohenmilstein.com

Bradley H. Cohen
U.S. Department of Justice, Civil Division
Federal Programs Branch
P.O. Box 883
Washington, D.C. 20044
Tel: (202) 305-9855 / Fax: (202) 616-8202
Email: bradley.cohen@usdoj.com

/s/ Lars C. Golumbic
Lars C. Golumbic