

IN THE UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

NICHOLAS E. PURPURA and	)	
DONALD R. LASTER, JR.,	)	
	)	
Plaintiffs-Appellants,	)	
	)	
v.	)	No. 11-2303
	)	
KATHLEEN SEBELIUS, individually and	)	
as Secretary of the United States	)	
Department of Health and Human Services,	)	
<i>et al.</i> ,	)	
Defendants-Appellees.	)	
_____	)	

**GOVERNMENT’S COMBINED OPPOSITION TO *PRO SE* PLAINTIFFS’  
MOTION FOR A TEMPORARY RESTRAINING ORDER AND MOTION  
TO VACATE THIS COURT’S ORDER GRANTING AN EXTENSION**

Plaintiffs-appellants, who are proceeding *pro se*, have filed two motions. The first, styled as plaintiffs’ “Affidavit in Support of Order to Show Cause for a Restraining Order Due to Extrodinary [sic] Circumstances that Require Emergency Relief,” seeks a temporary restraining order and other emergency relief pending appeal. The second, styled as plaintiffs’ “Motion to Vacate or Modify the Clerks Order Granting Extension of Time,” seeks to vacate this Court’s order of June 23, 2011, which granted the government a 30-day extension of time in which to file the appellees’ brief. For the following reasons, both motions should be denied.

1. Plaintiffs challenge provisions of the Patient Protection and Affordable Care Act, alleging that the Act violates the Constitution and various statutes. Plaintiffs allege, for example, that the Act unlawfully creates a “private Presidential Army,” Compl. at 12, and that the Act violates equal protection by taxing tanning salons because this amounts to a tax on “‘White’ Americans,” Compl. at 31.

The district court dismissed the complaint for lack of standing. R. 31. The court explained that, although plaintiffs challenged a series of the Act’s provisions, they failed to show injury resulting from any of the challenged provisions. The court held that many of their claims were, “at best, generalized grievances for which Plaintiffs have no standing.” *Id.* at 15. The court further held that “neither the Complaint nor the supporting documents nor the voluminous briefs sufficiently allege — or for that matter, allege at all — that Plaintiffs will be subject to the Act’s Individual mandate provision.” *Id.* at 17; *cf. Purpura v. Bushkin, Gaimes, Gains, Jonas & Stream*, 317 Fed. Appx. 263, 266 (3d Cir 2009) (discussing plaintiff Purpura’s “abusive and vexatious litigation in this Circuit”).

2. Plaintiffs appealed and filed their opening brief on June 10, 2011. They now ask this Court for emergency relief that would enjoin application of the statute. However, their *pro se* motion fails to show any injury, much less the imminent and

irreparable harm that would be a prerequisite for emergency relief even if the claims had any merit.

3. Plaintiffs have separately moved to vacate this Court's order of June 23, 2011, which granted the government's motion for a 30-day extension of time in which to file the appellees' brief. Although plaintiffs assert that there was no good cause for the extension, the basis for the extension was set out in the government's extension motion, which was properly granted by this Court.

Respectfully submitted,

MARK B. STERN  
(202) 514-5089

ALISA B. KLEIN  
(202) 514-1597

/s/ Dana Kaersvang  
DANA KAERSVANG  
Attorneys, Appellate Staff  
Civil Division, Room 7235  
Department of Justice  
950 Pennsylvania Ave., NW  
Washington, D.C. 20530

JULY 2011

## CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of July, 2011, I caused the foregoing motion to be filed with the U.S. Court of Appeals for the Third Circuit through the CM-ECF system and served upon plaintiffs by first-class mail at the following addresses:

Nicholas E. Purpura  
1802 Rue De La Port  
Wall, NJ 07719

Donald R. Laster, Jr.  
25 Heidl Ave.  
West Long Branch, NJ 07764

/s/ Dana Kaersvang  
DANA KAERSVANG