

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION**

CHAMBER OF COMMERCE OF
THE UNITED STATES OF AMERICA, *et al.*,

Plaintiffs,

v.

JANET NAPOLITANO, *et al.*,

Defendants.

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Civil Action No. AW-08-3444

**COURT ACTION REQUESTED
PRIOR TO SEPTEMBER 8, 2009**

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PLAINTIFFS' EMERGENCY MOTION FOR AN INJUNCTION PENDING APPEAL

Pursuant to Rule 62(c) of the Federal Rules of Civil Procedure, Plaintiffs Chamber of Commerce of the United States of America; Associated Builders and Contractors, Inc.; Society for Human Resource Management; American Council on International Personnel; and HR Policy Association (collectively, "Plaintiffs") respectfully move for an injunction pending their appeal from this Court's final order entered on August 26, 2009, which denied Plaintiffs' motion for summary judgment and granted Defendants' cross-motion for summary judgment. Plaintiffs have styled this pleading as an "emergency" motion because, without a court order granting the relief requested by Plaintiffs, the regulations at issue will go into effect nationwide on September 8, 2009. *See* Final Employment Eligibility Verification Rule ("Final Rule"), 73 Fed. Reg. 67,651 (Nov. 14, 2008) (original enforcement deadline of January 15, 2009), *enforcement delayed by* 74 Fed. Reg. 1937 (Jan. 14, 2009) (until February 20, 2009), *enforcement further delayed by* 74 Fed. Reg. 5621 (Jan. 30, 2009) (until May 21, 2009), *enforcement further delayed by* 74 Fed. Reg. 17,793 (Apr. 17, 2009) (until June 30, 2009), *and enforcement further delayed by* 74 Fed. Reg. 26,981 (June 5, 2009) (until September 8, 2009).

As set forth more fully in the memorandum of law attached as Exhibit A, good cause exists to grant an injunction under Rule 62(c) in order to maintain the *status quo* pending Plaintiffs' appeal to the United States Court of Appeals for the Fourth Circuit. A proposed order granting the requested relief is attached as Exhibit B.

Although this Court's Local Rules do not require Plaintiffs to confer with Defendants prior to filing this motion, in the interest of avoiding unnecessary litigation, Plaintiffs asked Defendants on August 31, 2009, whether they would voluntarily agree not to enforce the Final Rule pending Plaintiffs' appeal. Because of the rapidly approaching September 8, 2009 enforcement deadline, Plaintiffs asked Defendants for a decision no later than noon the next day. Shortly before noon on September 1, 2009, Defendants informed Plaintiffs that they would not be able to make a decision until the next morning. Plaintiffs agreed to provide Defendants with additional time to make a decision, and asked Defendants to communicate their decision no later than 10:00 am the next morning. However, at 5:35 pm this afternoon, Defendants informed Plaintiffs that they would not voluntarily delay enforcement of the Final Rule pending Plaintiffs' appeal, thereby necessitating the instant motion.

Dated: September 1, 2009

Respectfully submitted,

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