

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

BRIAN HALL, et al.,)
)
Plaintiffs)
)
v.)
)
MICHAEL O. LEAVITT, Secretary,)
Department of Health & Human Services,)
et al.)
)
Defendants.)

**CIVIL ACTION NO.
08-1715 (RMC)**

**PLAINTIFF BRIAN HALL'S MOTION FOR A
TEMPORARY RESTRAINING ORDER**

Plaintiff BRIAN HALL, pursuant to Fed. R. Civ. P 65 and LC v R 65.1, moves the Court to enter an order temporarily restraining the Defendants, MICHAEL LEAVITT, Secretary of the United States Department of Health and Human Services, and MICHAEL J. ASTRUE, Commissioner of the Social Security Administration, their officers, agents, employees, attorneys and successors-in-office, and all those in active concert or participation with them, from enforcing *POMS HI 00801.002, Waiver of HI Entitlement by Monthly Beneficiary, POMS HI 00801.034, Withdrawal Considerations, and POMS GN 00206.020, Withdrawal Considerations When Hospital Insurance is Involved*; from enrolling Plaintiff, BRIAN HALL, in Medicare, Part A; and from enforcing the aforementioned policies so as to deny Plaintiff, BRIAN HALL, his monthly Social Security benefits.

Plaintiff further moves that the restraining order sought herein be granted without requiring Plaintiff to post bond or security in as much as no pecuniary or other harm or damage will result to any Defendant, to the United States or to any other person, firm or

corporation by issuance and enforcement of such temporary restraining order pending this Court's determination of Plaintiff's Amended and Substituted Complaint for declaratory and injunctive relief.

CERTIFICATE PURSUANT TO LC v R7 (m) and LC v R 65.1(a)

Counsel for Plaintiffs has previously served counsel for Defendants with the Verified Amended and Substituted Complaint for Declaratory Judgment, A Restraining Order and Preliminary and Permanent Injunction. Counsel for Plaintiffs, simultaneously with the filing of Plaintiff BRIAN HALL'S Motion for Temporary Restraining Order, accompanying Memorandum of Points and Authorities, Declaration of BRIAN HALL, and Declaration of Gabrielle M. Kotoski, has served Defendants' counsel with those documents. Plaintiff's counsel also, simultaneously has filed and served, Plaintiffs' Motion for a Preliminary Injunction, which is accompanied by the same Memorandum of Points and Authorities, Declaration of BRIAN HALL, and Declaration of Gabrielle M. Kotoski as were filed with BRIAN HALL'S Motion for a Temporary Restraining Order.

Counsel for Plaintiffs' conferred with Defendants' counsel about BRIAN HALL'S emergent and imminent need for injunctive relief prohibiting his automatic enrollment in January, 2009 in Medicare, Part A, as well as his need for injunctive relief to prevent the loss of his Social Security benefits as a result of his disenrollment from Medicare Part A. Counsel for Plaintiffs sought the Defendants' agreement to such temporary relief for BRIAN HALL, pending a final resolution of this litigation, but Defendants refused to consent to such temporary relief.

Plaintiff BRIAN HALL has filed a Motion for a Temporary Restraining Order and a Motion for a Preliminary Injunction so that the motions can be combined and heard

together on a schedule to be agreed upon among the parties and the Court, or as set by the Court.

For the reasons set forth in the Verified Amended and Substituted Complaint, Plaintiffs' Memorandum of Points and Authorities in Support of the Motions for a Restraining Order and Preliminary Injunction, the Declaration of BRIAN HALL, and the Declaration of Gabrielle M. Kotoski, the relief requested should be granted until such time as the Court may hear argument on an injunction *pendente lite* and permanently.

Respectfully submitted,

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