

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

BAYOU LAWN & LANDSCAPE SERVICES, <i>et</i>)	
<i>al.</i> ,)	
)	
Plaintiffs)	
)	
v.)	
)	
)	
HILDA L. SOLIS, <i>et al.</i>)	
)	
)	
Defendants.)	
)	

[PROPOSED]
PRELIMINARY INJUNCTION

THIS CAUSE comes before the Court on Plaintiffs’ *Motion for Temporary Restraining Order and Preliminary Injunction*, filed April 16, 2012. The Court, upon the papers filed by the parties, and the evidence and argument presented at the hearing, is fully advised in the premises and determines that there is good cause for granting Plaintiffs’ Motion.

In order to prevail on a motion for a temporary restraining order or preliminary injunction, the moving party must show (1) a substantial likelihood of success on the merits, (2) a substantial threat of irreparable harm, (3) that the threat and injury to the moving party outweigh the harm that the injunction may cause the non-moving party, and (4) that granting the injunction would serve the public interest. *See N. Am. Med. Corp. v. Axiom Worldwide, Inc.*, 522 F.3d 1211, 1217 (11th Cir. 2008); *Parker v. State Bd. of Pardons & Paroles*, 275 F.3d 1032, 1035 (11th Cir. 2001).

Plaintiffs have sufficiently established that they meet the requirements for a preliminary injunction. Plaintiffs have demonstrated a substantial likelihood of success on the merits that neither Defendant is authorized by statute to issue the Program Rule titled “Temporary Non-Agricultural Employment of H-2B Aliens in the United States,” (77 Fed. Reg. 10,038 (Feb. 21, 2012), that this rule violates the Administrative Procedures Act, fails to comply with the Regulatory Flexibility Act, and is arbitrary and capricious.

Moreover, Plaintiffs will be imminently and irreparably harmed if the Program Rules go into effect, in that those Plaintiffs that are able to remain in business will see their costs increase dramatically, with no concomitant rise in income. Many Plaintiffs will suffer losses to their customer base in addition to their net income, thereby decreasing the value of their businesses and their associated goodwill. In contrast, Defendants will suffer no harm as a result of this Preliminary Injunction. Thus, the public interest favors the issuance of a Preliminary Injunction to maintain the *status quo* until this case can be resolved on the merits. “[M]aintenance of the status quo is the primary purpose of preliminary injunctive relief . . .” *Cate v. Oldham*, 707 F.2d 1176, 1185 (11th Cir. 1983).

Accordingly, it is

ORDERED AND ADJUDGED that the Plaintiffs’ Motion for Preliminary Injunction is **GRANTED**; and

THE COURT DECLARES AS FOLLOWS:

1. Defendants and their employees, agents, representatives, and successors in office are preliminarily enjoined from implementing the H-2B Final Program Rule titled “Temporary Non-Agricultural Employment of H-2B Aliens in the United States,” (77 Fed. Reg. 10,038 (Feb. 21, 2012)).

2. In accordance with Fed.R.Civ.P. 65(d), Defendants **ARE FURTHER**

INSTRUCTED to provide actual notice of this Order to their officers, agents, servants, employees, attorneys and all those in active concert and participation with them, so as to assure compliance.

DONE AND ORDERED in Chambers at Pensacola, Florida, this ____ day of _____, 2012.

UNITED STATES DISTRICT JUDGE

Copies to Counsel of Record.