

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

BAYOU LAWN & LANDSCAPE SERVICES, *et al.*,)
)

Plaintiffs)

v.)

HILDA L. SOLIS, *et al.*)

Defendants.)

No. _____

[PROPOSED]
TEMPORARY RESTRAINING ORDER

THIS CAUSE comes before the Court on Plaintiffs' *Motion for Temporary Restraining Order and Preliminary Injunction*, filed April 16, 2012. Upon consideration of the Motion, the Complaint, supporting Declarations, the Memorandum filed with the Court, and argument of counsel, the Court finds that the Motion has merit and determines that there is good cause for granting the Temporary Restraining Order requested in 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).

Based on the facts set forth in the Motion, the Complaint, supporting Declarations and the Memorandum, Plaintiffs have sufficiently established that they meet the requirements for a temporary restraining order. 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 Procedure 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 Temporary Restraining Order. Thus, the public interest favors the issuance of a Temporary Restraining Order to maintain the *status quo* until a preliminary injunction hearing is conducted, and this Temporary Restraining Order is granted with notice in order to avoid further harm to the Plaintiffs.

Accordingly, it is

ORDERED AND ADJUDGED that Plaintiffs’ application for a Temporary

Restraining Order is **GRANTED**; and

THE COURT DECLARES AS FOLLOWS:

1. Defendants and their employees, agents, representatives, and successors in office are temporarily restrained from implementing the Program Rules 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 Federal Rule of Civil Procedure 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.

3. This Temporary Restraining Order shall remain in force for fourteen (14) days unless extended by further Order of the Court.

4. The parties shall appear before the Court for a hearing on _____ to determine whether a preliminary injunction should be entered pursuant to Rule 65, Federal Rules of Civil Procedure.

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

UNITED STATES DISTRICT JUDGE

Copies to Counsel of Record.