

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

LABNET, INC., et al.,

Case No. 16-CV-0844 (PJS/KMM)

Plaintiffs,

v.

BRIEFING ORDER

United States Department of Labor, et al.,

Defendants.

The Court has been informed that the parties intend to bring dispositive cross-motions based on the administrative record.

The Court has already carefully examined the parties' arguments in conjunction with plaintiffs' motion for a preliminary injunction. Based on that review, the Court does not believe that it can find that any provision of the Department of Labor's revised persuader rule is facially invalid — that is, that “no set of circumstances exists under which [these provisions] would be valid” and that the rule is “unconstitutional in all of its applications.” *Wash. State Grange v. Wash. State Republican Party*, 552 U.S. 442, 449 (2008) (citation and quotations omitted). Therefore, the Court does not believe that it can award any relief to plaintiffs in this case. Instead, it appears to the Court that plaintiffs' arguments are best addressed in as-applied challenges to the rule. The Court will therefore hear the parties' dispositive motions, but asks that, as part of their motions, they address the issue outlined in this paragraph.

The motions are scheduled to be heard on Monday, October 3, 2016 at 8:30 a.m. in Courtroom 14E (MPLS) before Judge Patrick J. Schiltz. The Court directs that the cross-motions be briefed as follows:

1. Plaintiffs' Principal Memorandum. By August 15, 2016, Plaintiffs must file a memorandum in support of their motion for summary judgment.

2. Defendants' Principal and Response Memorandum. By August 29, 2016, Defendants must file a memorandum in support of their motion to dismiss or for summary judgment and must, in the same memorandum, respond to Plaintiffs' memorandum in support of their motion for summary judgment.

3. Plaintiffs' Response and Reply Memorandum. By September 12, 2016, Plaintiffs must file a memorandum that responds to Defendants' memorandum in support of their motion to dismiss or for summary judgment and may, in the same memorandum, reply to Defendants' response to Plaintiffs' motion for summary judgment.

4. Defendants' Reply Memorandum. By September 26, 2016, Defendants may file a memorandum in reply to Plaintiffs' response to Defendants' motion to dismiss or for summary judgment.

Plaintiffs' two memoranda together must not exceed 12,000 words. Defendants' two memoranda together must not exceed 12,000 words. Except insofar as this order is to the contrary, all memoranda must comply with the Federal Rules of Civil Procedure and Local Rules of the District of Minnesota. All other deadlines in this case are stayed pending

further order of the Court.

SO ORDERED.

Dated: July 18, 2016

s/Patrick J. Schiltz

Patrick J. Schiltz

United States District Judge