

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

AMERICAN COUNCIL OF LIFE
INSURERS, NATIONAL ASSOCIATION
OF INSURANCE AND FINANCIAL
ADVISORS-FORT WORTH, NATIONAL
ASSOCIATION OF INSURANCE AND
FINANCIAL ADVISORS-DALLAS,
NATIONAL ASSOCIATION OF
INSURANCE AND FINANCIAL
ADVISORS-PINEYWOODS OF EAST
TEXAS, NATIONAL ASSOCIATION OF
INSURANCE AND FINANCIAL
ADVISORS-TEXAS, NATIONAL
ASSOCIATION OF INSURANCE AND
FINANCIAL ADVISORS, NATIONAL
ASSOCIATION FOR FIXED ANNUITIES,
INSURED RETIREMENT INSTITUTE, and
FINSECA,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
LABOR, and JULIE SU, in her official
capacity as Acting Secretary, United States
Department of Labor,

Defendants.

Civil Action No. 4:24-cv-00482

**PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION AND
STAY OF EFFECTIVE DATE**

Plaintiffs American Council of Life Insurers, National Association of Insurance and
Financial Advisors-Fort Worth, National Association of Insurance and Financial Advisors-
Dallas, National Association of Insurance and Financial Advisors-Pineywoods of East Texas,
National Association of Insurance and Financial Advisors-Texas, National Association of

Insurance and Financial Advisors, National Association for Fixed Annuities, Insured Retirement Institute, and Finseca file this motion for a preliminary injunction and stay of effective date under Federal Rule of Civil Procedure 65 and 5 U.S.C. § 705 and state the following:

On behalf of their members, Plaintiffs seek a preliminary injunction and stay of effective date of the Department of Labor’s recently promulgated “Fiduciary Rule” to avoid further irreparable injury, as detailed in the attached memorandum in support of this motion.¹ Absent preliminary relief, the Rule will take effect on September 23, 2024. As set forth fully in the attached memorandum in support of Plaintiffs’ motion, the Court should grant the motion because Plaintiffs are likely to succeed on the merits; Plaintiffs and their members have suffered and will continue to suffer irreparable harm absent the requested relief; and the balance of equities and public interest weigh in favor of an injunction and stay.

Plaintiffs therefore respectfully request that the Court preliminarily enjoin the Department from enforcing the Rule against Plaintiffs and their members anywhere within the Department’s jurisdiction and that the Court stay the Rule’s effective date under 5 U.S.C. § 705. Plaintiffs respectfully request relief by July 26, 2024 to avert further irreparable injury.

¹ By “Rule,” Plaintiffs refer to substantively intertwined regulations that DOL proposed and adopted simultaneously. *See* Retirement Security Rule: Definition of an Investment Advice Fiduciary, 89 Fed. Reg. 32,122 (Apr. 25, 2024); Amendment to Prohibited Transaction Exemption 2020-02, 89 Fed. Reg. 32,360 (Apr. 25, 2024); Amendment to Prohibited Transaction Exemption 84-24, 89 Fed. Reg. 32,302 (Apr. 25, 2024); Amendment to Prohibited Transaction Exemptions 75-1, 77-4, 80-83, 83-1, and 86-128, 89 Fed. Reg. 32,346 (Apr. 25, 2024).

Dated: May 24, 2024

Respectfully submitted,

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Counsel for Plaintiffs

* *Pro hac vice* applications forthcoming

CERTIFICATE OF CONFERENCE

I hereby certify that on May 22, 2024, counsel for Plaintiffs contacted Alexander Ely of the United States Department of Justice, Federal Programs Branch, regarding the relief requested in this motion. On May 23, 2024, Mr. Ely advised counsel for Plaintiffs that the Defendants oppose this motion because Defendants' position is that it is for the Court to determine whether a preliminary injunction is warranted.

/s/ Kelly P. Dunbar
Kelly P. Dunbar*

CERTIFICATE OF SERVICE

I hereby certify that on May 22, 2024, counsel for Plaintiffs notified counsel for Defendants of the foregoing motion and will provide a courtesy copy upon filing by emailing a copy to Mr. Ely.

/s/ Kelly P. Dunbar
Kelly P. Dunbar*