

2. Plaintiffs further filed an application for temporary restraining order (the “Application”) seeking entry of a temporary restraining order.

3. After Defendants responded to the Application, this Court entered an Order on November 30, 2012 stating in pertinent part:

Verizon requests that the court treat the TRO application as a preliminary injunction application and conduct expedited proceedings. Verizon represents that it seeks to engage in substantial activity in advance of an anticipated December 10, 2012 closing, and while the markets are closed. It therefore requests that it be permitted to submit its responsive briefing on December 3, 2012 and that the court decide the preliminary injunction application by December 7, 2012.

In reply, plaintiffs request that the court enter a TRO to ensure that the proposed transaction does not go through. They state that they do not oppose expedited briefing, but they request that an evidentiary hearing be convened before the court decides the injunction issue so that they can present facts not set forth in their current pleadings. The court concludes that plaintiffs’ application should be decided as a TRO application. It is Verizon, not plaintiffs, who desires a conclusive preliminary injunction-type ruling by December 7. But a preliminary injunction is decided on a more complete record than can reasonably be developed between now and when briefing must be commenced and completed, if the court is to rule by December 7. Because this would not be fair to plaintiffs, and because they are apparently willing to assume the risk that the transaction will go through if their TRO application fails,² the court declines to adjudicate the TRO application as a preliminary injunction application. Instead, the court will rule on the application as a TRO application under the procedures and schedule set forth below. [Dkt.12, p.2]

4. Plaintiffs do not “assume the risk that the [Verizon/Prudential annuity transaction] will go through if their TRO application fails.” Plaintiffs filed the Application simply because, otherwise, given the 14 day duration of a temporary restraining order, Defendants could consummate the Verizon/Prudential annuity transaction pending their obtaining a hearing on a preliminary injunction. Plaintiffs have not waived the right to seek a preliminary injunction. In any event, to avoid the incorrect impression that Plaintiffs are content to allow a transaction blatantly violating Section 102 of ERISA, Section 401 of ERISA, Section 404 of ERISA and

Section 510 of ERISA to be consummated, subject only to a remedy after the fact, Plaintiffs hereby move for a preliminary injunction on the same grounds as they have applied for a temporary restraining order. Such grounds are reflected in the Complaint with appendix, the Application and the memorandum brief in support of the Application and will be amplified in a supplemental memorandum brief to be filed on Monday, December 3, 2012 in support of the Application and this motion. On the grounds stated, entry of a preliminary injunction, not only a temporary restraining order, will be appropriate, and, based upon notice having been given to Defendants, this Court, notwithstanding requirements applicable if the Court itself dictates an evidentiary hearing pursuant to its November 29, 2012 order, may, under Rule 65(a)(1), grant a preliminary injunction whether or not a temporary restraining order is appropriate.

WHEREFORE, Plaintiffs pray that this Court, grant a preliminary injunction. A proposed form of order granting a preliminary injunction is being submitted concurrently herewith.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing was served upon Defendant's counsel of record through this Court's electronic filing system this 30th day of November, 2012 as follows:

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