



Written by [Dave Bohon](#) on June 29, 2013

Hobby Lobby Wins Reprieve in Battle Against Contraception Mandate

A federal appeals court has given Hobby Lobby, the nationwide arts-and-crafts retailer, and Mardel, its subsidiary Christian book chain, a reprieve in their battle against Obama's contraception mandate. The mandate requires employers to provide their employees with health insurance that offers free contraception, including "morning after" pills known to cause abortion.

On June 27 the 10th Circuit Court of Appeals in Denver ruled that the Christian owners of Hobby Lobby and Mardel had sufficiently demonstrated that they would likely prevail in proving that their religious freedoms would be compromised if they were forced to obey the mandate. The ruling reversed a lower court's refusal to provide a preliminary injunction blocking enforcement of the mandate while the Hobby Lobby case proceeds in court.

In 2012, when [Hobby Lobby/Mardel filed suit](#) to stop enforcement of the mandate, founder and CEO David Green explained that "by being required to make a choice between sacrificing our faith or paying millions of dollars in fines, we essentially must choose which poison pill to swallow. We simply cannot abandon our religious beliefs to comply with this mandate."

The latest court ruling means that, while the case proceeds, Hobby Lobby and Mardel will not be subject to the estimated \$1.3 million per day in fines that would have been imposed on them as of July 1 for their refusal to obey the mandate. The companies, founded by Green and family as biblically based businesses, have a combined total of some 14,000 full-time employees eligible for company-provided health insurance.

[Baptist Press News](#) reported that in his opinion for the 10th Circuit, "Judge Timothy Tymkovich said Hobby Lobby and Mardel not only were eligible to sue under the 1993 Religious Freedom Restoration Act (RFRA) but 'have established a likelihood of success that their rights under this statute are substantially burdened by the contraceptive requirement.'... The 10th Circuit rejected the Obama administration's argument that RFRA's protections do not extend to for-profit companies such as Hobby Lobby and Mardel. 'Such corporations can be 'persons' exercising religion for purposes' of RFRA, Tymkovich wrote."

Green said that he was "encouraged by today's decision from the 10th Circuit. My family and I believe very strongly in our conviction that life begins at conception, and the emergency contraceptives that we would be forced to provide in our employee health plan under this mandate are contrary to that





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conviction.”

Earlier, in explaining his family’s decision to fight the contraception mandate, Green said that it has been “by God’s grace and provision” that his business has prospered and endured. “Therefore we seek to honor God by operating the company in a manner consistent with biblical principles. The conflict for me is that our family is being forced to choose between following the laws of the country that we love or maintaining the religious beliefs that have made our business successful and have supported our family and thousands of our employees and their families.”

Kyle Duncan, general counsel with the [Becket Fund for Religious Liberty](#), the legal advocacy group representing Hobby Lobby/Mardel, noted that the company and the Green family “faced the terrible choice of violating their faith or paying massive fines starting [July 1]. We are delighted that both the 10th Circuit and the district court have spared them from this unjust burden on their religious freedom.”

Duncan called the ruling a “milestone” in the fight for religious liberty. “This is a tremendous victory not only for the Green family and for their business,” he said, “but also for many other religious business owners who should not have to forfeit their faith to make a living.”

The Hobby Lobby/Mardel lawsuit will now head back to U.S. District Court for the Western District of Oklahoma, the court that earlier ruled against the company’s religious exemption argument.

There are presently over 60 lawsuits against the mandate in process in federal courts, filed by private companies as well as religious-based non-profits such as colleges, hospitals, and foundations that would be forced to violate their religious convictions concerning abortion and contraception if compelled to obey the mandate. In addition to Hobby Lobby/Mardel, Becket Fund is representing such entities as Wheaton College, East Texas Baptist University, Houston Baptist University, Colorado Christian University, the Eternal Word Television Network, Ave Maria University, and Belmont Abbey College.

The contraception mandate was activated against for-profit companies on August 1 of last year, with non-profits facing activation of the mandate as of August 1 of this year, barring similar rulings by federal courts. One non-profit did get such a ruling in mid-June when federal district judge Joy Flowers granted a preliminary injunction against the mandate for Pennsylvania’s Geneva College, the first such injunction granted for a non-profit college. “Three Supreme Court decisions support Geneva’s argument that there is a likelihood of success on the merits with respect to its assertion that it will suffer a substantial burden under the RFRA,” wrote Flowers in her ruling.

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