



Judge Rules for Christian Company in Lawsuit Over Contraception Mandate

Pro-family forces have won an early skirmish in the war over Barack Obama's attempt to force businesses — including those guided by Christian values — to provide free birth control, sterilization, and abortion-inducing drugs to their employees.

On July 27, federal judge John L. Kane of the U.S. District Court of Colorado imposed a preliminary injunction halting the Health and Human Services' (HHS) so-called "contraception mandate" in the case of a Colorado-based company, Hercules Industries, whose owners are devout Catholic Christians. Kane ruled that the company would suffer "irreparable harm" if its owners were required to abide by the mandate in conflict with their religious convictions.



Not long after the Obama administration announced that the mandate would move forward, Hercules' owners — William Newland, Paul Newland, James Newland, and Christine Ketterhagen — sued the federal government to suspend the rule, one of 24 lawsuits filed thus far. Matt Bowman of the [Alliance Defense Fund \(ADF\)](#), the conservative legal advocacy group that is representing the company, said the suit "seeks to ensure that Washington bureaucrats cannot force families to abandon their faith just to earn a living." Bowman noted that "Americans don't want politicians and bureaucrats deciding what faith is, who the faithful are, and where and how that faith may be lived out."

In his ruling, Kane wrote that the company's owners "seek to run Hercules in a manner that reflects their sincerely held religious beliefs." To make certain faith came first in their operation, the owners added a provision in the company's articles of incorporation allowing the board of directors to make "religious, ethical, or moral standards" a priority over profitability.

Kane wrote that the government's arguments in favor of the mandate "are countered, and indeed outweighed, by the public interest in the free exercise of religion. As the Tenth Circuit has noted, 'there is a strong public interest in the free exercise of religion even where that interest may conflict with [another statutory scheme]....' Accordingly, the public interest favors entry of an injunction in this case." Kane added that the government's "harm pales in comparison to the possible infringement upon Plaintiffs' constitutional and statutory rights."

The temporary injunction will allow Hercules' lawsuit against the mandate to move forward unimpeded. Had Kane ruled against the company, as of November 1 it would have been required to provide its 265 employees with free contraception — including such abortion-inducing drugs as the RU-486, the so-called "morning after" pill — along with sterilization, and related counseling that would violate the



Written by [Dave Bohon](#) on July 30, 2012

religious convictions of the owners. Since Hercules is a private, for-profit business, it, like thousands of other similar small businesses, would not qualify for the mandate's narrowly defined religious exemption that applies mainly to churches.

As noted by the [Heritage Foundation](#), the company "could have chosen not to comply with the mandate or to drop insurance coverage altogether for its employees, facing steep monetary penalties under Obamacare either way." And what would Obama's penalty on religious convictions look like? "If it chose to buck compliance with the mandate, starting on November 1, Hercules would be fined \$100 per employee per day of non-compliance," reported Heritage. "With 265 employees, Hercules' fine would have amounted to \$800,000 per month—almost \$10 million per year."

And if the company "were to take the more likely action of dropping health care coverage to avoid facilitating the mandate," reported Heritage, "thereby forcing its employees into government-run exchanges, it would face a fine on faith of approximately \$2,000 per employee per year, for a total of \$530,000 per year."

The ADF's Matt Bowman noted that while Kane's temporary injunction applies only to the suit filed by Hercules, it nonetheless sets a precedent for the other legal challenges being mounted against the mandate. "Every judge in these cases is going to look at what other judges said," he said. "The reasoning behind the injunction is that every American, including family business owners, is entitled to practice their faith without the government forcing them to violate their beliefs or face heavy fines or penalties."

Michael Norton, senior counsel with the ADF, told the [Catholic News Agency](#) that the suit is "very important" because it will help determine "whether family-owned small businesses have the freedom to practice their faith as they wish in the public square and in the public arena, or whether they will be obliged to offer health insurance coverage that violates that faith."

Norton added that the prevailing conservative view is that "every American should be free to live and do business according to their faith. They should not have to choose between their faith and doing what some bureaucrat or politician thinks ought to be the way they live out their faith."

The [Becket Fund for Religious Liberty](#), which is representing several organizations in lawsuits against the mandate, said Kane's ruling could well begin the push for the eventual dismantling of the Obama mandate. "Judge Kane's ruling today in favor of a religious for-profit plaintiff challenging the coercive HHS mandate got the law right," said Hannah Smith, senior counsel with the Becket Fund. "Religious liberty rights don't stop at the store-front door. This decision portends the demise of the current Administration's attempts to drive religious activity from the public square and confine it within the four walls of a church."



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