



Written by [Dave Bohon](#) on March 29, 2012

## Business Owner Challenges Contraception Mandate on Religious Grounds

It is not just Christian institutions that are challenging President Obama's contraception mandate. The American Center for Law and Justice (ACLJ) has filed a lawsuit on behalf of a Missouri businessman who argues that the mandate, which forces him to provide free birth control for his employees through their health insurance, violates his constitutionally protected religious freedoms. CNSNews.com reported that the suit, the first filed against the mandate by a business owner, requests a permanent injunction banning the department of Health and Human Services (HHS) from requiring individuals and institutions with religious objections to abide by the mandate.



The Catholic businessman, Frank R. O'Brien, owns St.-Louis-based O'Brien Industrial Holdings, which operates several companies (including Christy Refractories, Christy Minerals, and others) that explore, mine, and process refractory and ceramic raw materials. The business has 87 employees.

O'Brien argues that his Christian convictions are key to the operation of his business. According to its [website](#), the company's mission is to "make our labor a pleasing offering to the Lord while enriching our families and society," a reference to Ephesians 6:1-9. Additionally, the website explains, the conduct of employees "is guided by the Golden Rule and the Ten Commandments."

ACLJ attorney Francis Manion, who is representing O'Brien, said that his client is very devout. "He's got a religious statue in the lobby of his office," Manion explained. "That's what religious diversity and pluralism is all about. There are certain companies that you know don't do certain things."

Manion said that the contraception mandate "would require business people like our client to leave their religious beliefs at home every day as a condition of doing business in our society." He added that the HHS rule "tells people like Frank O'Brien that they have to choose between conducting their business in a manner consistent with their moral values, or conducting their business in a manner consistent with the government's values. The Constitution does not allow the government to impose such a choice."

The lawsuit argues that the mandate "imposes a substantial burden on Plaintiffs' free exercise of religion by coercing Plaintiffs to choose between conducting their business in accordance with their religious beliefs or paying substantial penalties to the government."

Manion pointed out that Missouri already has a similar rule mandating that companies provide contraception coverage for employees, but that rule includes an exemption for individuals with religious objections. "There is no good reason why the federal government couldn't — and shouldn't — do the



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same,” challenged Manion. “The Constitution, in fact, demands nothing less.”

Manion told the [St. Louis Review](#), a Catholic publication, that it is unlikely the federal government will voluntarily rescind the mandate, suggesting that it will require a volley of court rulings to dismantle the rule. “We are really reasserting the right to religious liberty in these cases,” he said. “It’s amazing how little people think about that and how little they value that, compared to the Founding Fathers who put it into our Constitution.”

He added that the government has no right to “compel and coerce people to do this sort of thing that directly violates their religious beliefs. If the government thinks that universal access to contraception is so important, the government can provide that without coercing institutions or employers like Frank O’Brien who have objections to that.”

[TheHill.com](#) reported that in February the U.S. Senate defeated an amendment by Senator Roy Blunt (R-Mo.) that would have exempted both religious and secular employers from health coverage mandates that violate their religious or moral beliefs.

According to the [St. Louis Post-Dispatch](#), a legal scholar at the liberal [Brookings Institution](#) argued that the federal government is not obligated under the Second Amendment to grant exemptions based on a company owner’s personal convictions. “But another expert said the government must allow exemptions to any law ‘requiring somebody to do something he believes is religiously forbidden,’ ” reported the paper. “That expert, Eugene Volokh, professor of religious freedom law at UCLA, said one question for courts to decide is whether the petitioner is sincere in his beliefs.”

Manion told the *Post-Dispatch* that he doesn’t foresee a flurry of similar lawsuits from private companies challenging the mandate. “Typically a corporation is in the business of making as much money as they can make,” he said. “Most corporations don’t have religious beliefs.”



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