Written by **Joe Wolverton, II, J.D.** on April 24, 2013

Family-run Businesses Successfully Defend Faith Against ObamaCare Mandate

Score one for the little guy and for the right of all people to freely exercise religion as protected by the First Amendment.

A story published at LifeNews.com reports that a "family-run business is the latest to beat the Obama administration's HHS mandate in court." The business boldly asserting its rights is the Seneca Hardwood Lumber Company.

Courthouse News Service provided the following recap of the case so far and a description of Seneca Hardwood, including an account of the owners' religious beliefs that compelled them to take on the president:

> Geneva College, a Christian liberal arts college set in Beaver Falls, Penn., sued the Obama administration and demanded an injunction to the women's preventive health care regulations of the Patient Protection and Affordable Care Act of 2010.
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> Seneca Hardwood Lumber Co., of Cranberry, Penn., and two of its owners, Wayne Hepler and Carrie Kolesar, joined the lawsuit in June 2012. Hepler also sued on behalf of WLH Enterprises, a sawmill with six full-time employees, five of whom are covered under the Seneca health insurance plan, which begins its next plan year on July 1. The plan also covers 19 of the lumber company's 22 full-time employees, including Kolesar's husband and Hepler.
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> Hepler and his 13 children participate extensively in both Catholic and pro-life activities and are committed to the Church's teachings on human life and sexuality, the complaint states. Hepler built and runs a Catholic retreat house and was a board member for several years for the Couple to Couple League, a national Catholic group dedicated to "natural family planning."
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> Seneca makes charitable donations to Catholic causes, and Hepler even built a chapel on business premises.
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> The Heplers say their sincerely held religious beliefs prohibit them from intentionally participating in, paying for, facilitating, or otherwise supporting the use of abortifacient drugs, contraception, sterilization, and related education and counseling through their company's health insurance plan, which does not have grandfathered status.

On April 19, Judge Joy Flowers Conti of the U.S. District Court for the Western District for Pennsylvania found in favor of the Heplers and issued an order granting a preliminary injunction, preventing the Department of Health and Human Services from "pursuing any enforcement actions against or imposing any penalties … as a result of the moving plaintiffs' noncompliance with the requirement … that their health insurance plan or insurer provide contraception, abortifacients, sterilization, or related

education and counseling in any health insurance plan offered by the Seneca Hardwood Lumber Company."

As indicated in the judge's order, the particular provision of ObamaCare at issue in this case is the mandate that forces business to provide employee health insurance plans that include compensation for birth control and so-called "morning after pills."

Seneca Hardwood Lumber Company had a problem with that provision and rather than relent, the owner decided to defend his religious freedom in court, taking on the Obama administration directly.

In a statement issued to LifeNews, the attorney from the Alliance Defending Freedom, which is representing Seneca Hardwood, explained why his organization is taking on the federal government.

Alliance Defending Freedom Senior Legal Counsel Matt Bowman told LifeNews:

> All Americans, including job creators and providers, should be free to live according to their faith rather than be forced into violating their own consciences. The court has done the right thing in issuing an order against the administration's abortion pill mandate, just as many other courts have done. For the many family-run businesses affected by the mandate, the court stated it well: "the mandate's requirements impose a substantial burden on their exercise of religion."

Judge Conti set out the reasoning behind her decision:

> Defendants overlook the fact that [Seneca Hardwood Lumber Company's] health insurance plan already does not cover the objected to services. If the requested relief is granted, nothing will change. The government already provides the objected to services for free or at a reduced cost to many individuals — and may continue to do so. This factor, therefore, weighs in favor of granting preliminary injunctive relief.

Were the Obama administration permitted to enforce the provision at issue, the judge held, the Heplers would be irreparably harmed were they forced to choose between complying with the ObamaCare mandates and leaving their employees without health insurance coverage.

Finally, in her Findings of Fact and Conclusions of Law issued simultaneously with the preliminary injunction, Judge Conti explained that it was irrelevant to the First Amendment analysis of the case who actually purchased the insurance plans in question, the Heplers or a corporation (Seneca Hardwood Lumber Co.). Either way, the right to freely exercise religious beliefs would be abrogated.

On p. 16 of the Findings of Fact, Judge Conti writes:

> Regardless of who purchases the insurance in question in this case — whether it be SHLC (acting on behalf of the Heplers), or the Heplers themselves — that insurance will necessarily include coverage for the objected to services, thus imposing a substantial pressure on the Heplers to "modify [their] behavior and to violate their beliefs" by either giving up their health insurance generally or providing the objectionable coverage. It is not, as defendants suggest, merely a question whether plaintiffs object to third parties' decisions with respect to using or purchasing the objected to services. Instead, plaintiffs' objection relates to whether the Heplers and SHLC will be forced to provide coverage for the objected to services in the first place. This is a quintessential substantial burden, and plaintiffs demonstrated that they are likely to succeed on the merits with respect to the substantial burden issue.

The Heplers are not alone. According to a story published last year by the Associated Press, "Lawsuits have been filed in eight states and the District of Columbia by the Archdioceses of Washington and New

York, the Michigan Catholic Conference, Catholic Charities in Illinois, Mississippi, Missouri and Indiana, health care agencies in New York and two dioceses in Texas."

The article quotes New York Cardinal Timothy Dolan, president of the U.S. Conference of Catholic Bishops saying, "We have tried negotiation with the administration and legislation with the Congress, and we'll keep at it, but there's still no fix. Time is running out, and our valuable ministries and fundamental rights hang in the balance, so we have to resort to the courts now."

Another group fiercely battling against the president's despotic healthcare law reports similar success in obtaining courthouse victories for their clients.

On its website, the American Center for Law and Justice (ACLJ) reports that since last November they have obtained seven preliminary injunctions in cases like the Heplers, challenging the provision of ObamaCare mandating providing of birth control and pharmaceuticals that could cause an abortion.

The ACLJ website happily informs readers of its latest victory:

> The most recent injunction in our favor came down last Friday, when Judge Ruben Castillo of the U.S. District Court for the Northern District of Illinois entered a preliminary injunction protecting our clients, Fred and Catherine Hartenbower, and their businesses, Hart Electric and H.I. Hart, from having to comply with the Mandate.

The preliminary injunction obtained by Seneca Hardwood Lumber and the Heplers will remain in effect until the district court hands down a final ruling on the case or until the Supreme Court or the Third Circuit Court of Appeals rules on this or a "substantially similar" case.

With religious freedom and other fundamental rights under constant attack from the federal government, the organizations fighting on behalf of family-run businesses are to be praised for their efforts to lawfully resist the tyranny of the ObamaCare behemoth.

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