



Written by [Raven Clabough](#) on December 10, 2013

## HHS Mandate Continues to Be Challenged in Court

Priests for Life is [challenging](#) the Department of Health and Human Services' (HHS) contraception mandate in U.S. District Court in Washington, D.C., and is joined by other individual plaintiffs. The challenge asserts that the plaintiffs' religious freedoms are being violated by forcing them to provide no-cost access to contraceptives, including those that induce abortion.



Priests for Life is being represented by attorneys from the American Freedom Law Center. Individual plaintiffs on the case include Father Frank Pavone (shown), Janet Morana, and Dr. Alveda King, niece of Martin Luther King, Jr.

"With this mandate contained in the Affordable Care Act, the government is not only violating our religious beliefs; they are also taking it upon themselves to tell us what the boundaries of those religious beliefs are," states Father Pavone. "It is not up to the government to tell us when our conscience hurts; on the contrary, it's up to us as believers to tell the government."

Robert Muise, American Freedom Law Center co-founder and senior counsel, summarizes the issue before the court:

The question for the court ... is not whether compliance with the contraception mandate can be reconciled with the teachings of the Catholic Church. That's a question of religious conscience for the plaintiffs, and they have concluded that their legal and religious obligations are incompatible. Consequently, the contraception mandate forces them to do what their religion tells them they must not do in direct violation of the First Amendment and the Religious Freedom Restoration Act.

The challenge landed in federal court on Monday, but the plaintiffs appeared unsatisfied with what took place in the courtroom.

Following Monday's hearing, Father Frank Pavone, National Director of Priests for Life, said, "What we just saw in that courtroom is of Biblical proportions."

According to government attorneys, there are exemptions in place for entities that are truly operating as religious organizations and can prove it. As noted by the plaintiffs, however, there is still a problem. Even if organizations manage to qualify for that exemption, they are still obligated to ensure employee access to the contraception via a third-party vendor.

Father Pavone declares the options to be unacceptable, and states that the group will drop the health insurance if they are forced to comply with the mandate.

"Where are the brakes?" Pavone asked. "Where does it stop for the government to tell the church what it can and cannot do?"

Those in support of the mandate defend it as a well-balanced provision.

"The Obama administration has, I think, made a very strong compromise trying to accommodate religious liberty interests while at the same time protecting the health of women," said Elizabeth



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Wydra, chief counsel for the Constitutional Accountability Center.

The challenge brought by Priests for Life is one of over 80 lawsuits pending across the United States. Just last week, the University of Notre Dame and the Fellowship of Catholic University Students (FOCUS) filed similar suit.

“I think the Obama administration’s attempts to take religious freedom away from anyone are bound to fail,” said Matthew Bowman, the senior legal counsel for Alliance Defending Freedom, which is representing FOCUS.

Lower courts currently considering challenges to the mandate are believed to be waiting for guidance from the Supreme Court.

Fox News [reports](#), “The justices have agreed to hear the cases of two for-profit organizations whose owners say their rights will be violated if they’re forced to comply. Though the newest lawsuits stem from faith-based organizations, that Supreme Court decision — due by June 2014 — could provide enormous legal precedent.”

Father Pavone is confident that the court will rule in favor of the plaintiffs, though challenges to the HHS mandate have been met with resistance.

The United States Court of Appeals for the Third Circuit has ruled that the Conestoga Wood Specialties Corporation, a Mennonite-owned company, must comply with the Health and Human Services mandate that compels companies to pay for drugs that may cause abortions. The ruling was handed down in a 2-1 decision asserting that the Mennonite faith of the company’s owners may not prohibit the company from complying with the mandate.

And in February 2012, the attorneys general of seven states — Florida, Michigan, Nebraska, Ohio, Oklahoma, South Carolina, and Texas — along with three employers affiliated with the Catholic church, a nun, and a missionary, filed suit against the federal healthcare law’s contraception mandate. But on July 17 of that year, a federal judge dismissed the case, declaring that the groups behind the suit had no standing.

Still, challenges continue to be made against the controversial mandate.

On February 9, 2012, the Becket Fund for Religious Liberty [filed](#) on behalf of the Eternal Word Television Network (EWTN), a Catholic news organization. The Becket Fund also filed on behalf of Ave Maria University, a school dedicated to living the teachings of the Catholic church, in February of the same year.

On March 22, 2012, the state of Alabama joined the Becket Fund’s lawsuit on behalf of EWTN.

On July 18, 2012, Wheaton College filed a lawsuit in partnership with Catholic University of America, “marking the first-ever partnership between Catholic and evangelical institutions to oppose the same regulation in the same court” the Becket Fund website states.

Last September, Hobby Lobby Stores, Inc., a privately held retail chain, filed a lawsuit in the U.S. District Court for the Western District of Oklahoma, opposing the HHS “preventive services” mandate, which forces the Christian-owned-and-operated business to provide, without co-pay, the “morning after pill” and “week after pill” in their health insurance plan.

On October 11, 2013, three religious ministry groups — Reaching Souls International, Truett-McConnell College, and Guidestone Financial Resources — that do not fall under the proper criteria to qualify for



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the “religious employer” exemption filed a class-action lawsuit defending their right to carry out their Christian mission.

Last month, the Supreme Court [agreed](#) to review the HHS mandate, accepting two cases — those involving the Conestoga Wood Specialities Corp. and Hobby Lobby — centered on that very issue. The White House is hopeful that the high court will conclude that the mandate is “lawful and essential to women’s health.”

In addition to opposition from various organizations, a majority of the American people continue to remain opposed to the HHS mandate, according to a December 2 Rasmussen Report [poll](#). While 38 percent of those polled believe that businesses should be required by law to provide health insurance that covers government-approved contraceptives without co-payments, 51 percent disagree.



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