Written by **Dave Bohon** on June 30, 2014

Supreme Court Rules for Religious Liberty in Hobby Lobby Case

In a 5-4 decision Monday June 30, the U.S. Supreme Court ruled that some for-profit companies can cite religious convictions to opt out of the contraception mandate that would have required all businesses to provide free contraceptives — including those that can cause abortion — to their employees. The decision represents a huge blow to President Obama's "Affordable Health Care" law, and a victory for scores of businesses that have claimed that the mandate would require them to violate their belief that all life is sacred.

The ruling came in favor of two family-held companies — Hobby Lobby, owned by the Green family, and Conestoga Wood Specialties, owned by the Hahn family — both of whom had said that the mandate would represent an unacceptable moral obstacle to their businesses. Both companies faced millions of dollars in fines for refusing to make available abortion-inducing contraceptive drugs to their employees. Hobby Lobby and another company owned by the Greens faced as much as $1.3 million in fines for CEO David Green's resolute refusal to bow to the mandate. "This legal challenge has always remained about one thing and one thing only," said Green when his company first filed suit to stop the mandate — "the right of our family businesses to live out our sincere and deeply held religious convictions as guaranteed by the law and the Constitution."

Five Supreme Court justices sided with the Hobby Lobby and Conestoga owners, citing the Religious Freedom Restoration Act (RFRA) to reject the efforts of the federal Department of Health and Human Services (HHS) to force the owners of the Christian-based businesses to violate their consciences in order to fulfill the requirements of the mandate.

"In holding that the HHS mandate is unlawful, we reject HHS's argument that the owners of the companies forfeited all RFRA protection when they decided to organize their businesses as corporations rather than sole proprietorships or general partnerships," wrote Justice Alito for the majority in the two cases. "The plain terms of RFRA make it perfectly clear that Congress did not discriminate in this way against men and women who wish to run their businesses as for-profit corporations in the manner required by their religious beliefs."

Alito wrote that the RFRA "applies to regulations that govern the activities of closely held for profit corporations like Conestoga and Hobby Lobby," noting that the "HHS contraceptive mandate substantially burdens the exercise of religion."

In a concurring opinion Justice Kennedy wrote: "Among the reasons the United States is so open, so tolerant, and so free is that no person may be restricted or demeaned by government in exercising his or her religion."

Alito emphasized, however, that the decision is not overarching, but limited only to the contraceptive mandate issue. “Our decision should not be understood to hold that an insurance-coverage mandate must necessarily fail if it conflicts with an employer’s religious beliefs,” he wrote.

In a dissenting opinion, Justice Ruth Bader Ginsburg — joined by Justices Sonia Sotomayor, Elena Kagan, and Stephen Breyer — insisted that the government has a “compelling interest” to force companies to provide free birth control. “Those interests are concrete, specific, and demonstrated by a wealth of empirical evidence,” she wrote. “To recapitulate, the mandated contraception coverage enables women to avoid the health problems unintended pregnancies may visit on them and their children.”

In a separate dissent Justice Elena Kagan wrote, “Congress has made a judgment and Congress has given a statutory entitlement and that entitlement is to women and includes contraceptive coverage, and when an employer says, ‘No, I don’t want to give that,’ that woman is quite directly, quite tangibly harmed.”

White House Press Secretary Josh Earnest complained that the decision “jeopardizes the health of women who are employed by these companies,” but insisted that the Obama administration would respect the ruling. He added that “we will work with Congress to make sure that any women affected by this decision will still have the same coverage of vital health services as everyone else.”

Predictably, Cecile Richards of abortion giant Planned Parenthood expressed her outrage at the High Court’s decision, accusing it of ruling “against American women and families, giving bosses the right to discriminate against women and deny their employees access to birth control coverage. This is a deeply disappointing and troubling ruling that will prevent some women, especially those working hourly-wage jobs and struggling to make ends meet, from getting birth control.”

As for the victors, Lori Windham, senior counsel for the Becket Fund for Religious Liberty, which represented Hobby Lobby and the Green family in the case, called the ruling “a landmark decision for religious freedom. The Supreme Court recognized that Americans do not lose their religious freedom when they run a family business. This ruling will protect people of all faiths. The Court’s reasoning was clear, and it should have been clear to the government. You can’t argue there are no alternative means when your agency is busy creating alternative means for other people.”

In a statement for the Green family, Hobby Lobby co-founder Barbara Green said that her family was “overjoyed by the Supreme Court’s decision. Today the nation’s highest court has re-affirmed the vital importance of religious liberty as one of our country’s founding principles. The Court’s decision is a victory, not just for our family business, but for all who seek to live out their faith. We are grateful to God and to those who have supported us on this difficult journey.”

In a press release the Becket Fund predicted that the decision would also have “important implications for over 50 pending lawsuits brought by non-profit religious organizations, such as the Little Sisters of the Poor, which are also challenging the mandate. In two different respects, the Supreme Court strongly signaled that the mandate may be struck down in those cases too. First, it rejected the government’s argument that there was no burden on the Greens’ religious exercise because only third parties use the drugs. Second, it held that the government could simply pay for contraception coverage with its own funds, rather than requiring private employers to do so.”

David Cortman, senior counsel for Alliance Defending Freedom, which assisted in representing the Hahn family and Conestoga Wood Specialties, said after the ruling that “Americans don’t surrender

their freedom by opening a family business. In its decision today, the Supreme Court affirmed that all Americans, including family business owners, must be free to live and work according to their beliefs without fear of government punishment. In a free and diverse society, we respect the freedom to live out our convictions."

Among the Christian, pro-life, and pro-family leaders applauding the ruling was Marjorie Dannenfelser of the Susan B. Anthony List, who called the ruling a "great victory for religious liberty.... In living out our religious convictions, there are certain things we must not do. This is why we are at a watershed moment. Religious people will no longer be ordered to take action that our religion says we must not take."

In a statement Tony Perkins of the Family Research Council said that the High Court had delivered "one of the most significant victories for religious freedom in our generation. We are thankful the Supreme Court agreed that the government went too far by mandating that family business owners must violate their consciences under threat of crippling fines."

And Russell Moore of the Southern Baptist Convention's Ethics and Religious Liberty Commission called the ruling "exhilarating," declaring that "as a Baptist I am encouraged that our ancestors' struggle for the First Amendment has been vindicated. This is as close as a Southern Baptist gets to dancing in the streets with joy."

Photo: AP Images