

ACLJ Continues Battle Against ObamaCare

As presidential hopefuls continue declaring their intentions to battle President Obama in 2012, the American Center for Law and Justice is still battling one of Obama's initiatives in court.

The ACLJ on Monday urged a federal appeals court to reinstate its lawsuit challenging the constitutionality of ObamaCare, explaining that its position is both "grounded in the Constitution" and Supreme Court precedent.

In a reply brief filed with the U.S. Court of Appeals for the District of Columbia Circuit, the ACLJ contends the arguments put forth by the Department of Justice "lack support in the text, history or related Supreme Court jurisprudence of the Commerce or Necessary and Proper Clauses" of the U.S. Constitution.

"We look forward to presenting our arguments before the appeals court in September and remain confident that our lawsuit challenging ObamaCare will be reinstated," said Jay Sekulow, chief counsel of the ACLJ.

"The Constitution and Supreme Court precedent are clear: the health care law oversteps the authority of Congress. The individual mandate, requiring Americans to purchase health insurance, is at the heart of this law. It is constitutionally flawed and we believe ultimately will render the entire health care law unconstitutional."

The ACLJ's reply brief, posted here, rejects the Justice Department's position that the individual mandate is constitutionally permissible under the Commerce Clause: "There is no American tradition of forcing unwilling individuals to operate a business or buy a good or service in the name of

‘regulating commerce,’ and it is not a coincidence that the Supreme Court’s Commerce Clause cases upholding regulation under the ‘substantial effects’ test have involved the regulation of ongoing commercial or economic activities, unlike Section 1501. Nothing in law or logic supports Defendants’ novel extension of this federal regulatory authority to mere inaction, decisions, or thought processes that relate to an economic topic.”

The ACLJ also contends that the Department of Justice has done nothing to demonstrate that the constitutional rights of two of the plaintiffs have not been violated by the individual mandate provision under the Religious Freedom Restoration Act (RFRA): “Defendants have not shown that Plaintiffs Lee and Seven-Sky failed to sufficiently allege that Section 1501 substantially burdens their religious exercise, nor have Defendants shown that the individual mandate, as applied to Lee and Seven-Sky, is the least restrictive means of furthering a compelling governmental interest.”

In February, a federal district court dismissed the ACLJ’s lawsuit challenging ObamaCare in which the ACLJ represents four U.S. residents and federal taxpayers: Susan Seven-Sky from New York, and three Texas residents, including Charles “Eddie” Lee, Kenneth Ruffo, and Gina Rodriguez.

The federal appeals court is scheduled to hear oral arguments in the case on Sept. 23.

In addition to its legal action, the ACLJ is actively backing legal challenges by Florida and Virginia. The ACLJ filed an amicus brief on behalf of 74 members of Congress and more than 70,000 Americans at the 11th Circuit on behalf of Florida’s challenge. Also, the ACLJ filed an amicus brief at the 4th Circuit on behalf of 49 members of Congress backing Virginia’s lawsuit.