

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.