

Appeals Court Hears Liberty's Case Against Obamacare

A 4th U.S. Circuit Court of Appeals heard oral arguments on Tuesday challenging the constitutionality of the Patient Protection and Affordable Care Act, better known as Obamacare.

A Democratic-nominated three-judge panel listened to attorneys from both sides of the *Liberty University v. Geithner* case. Liberty University Counsel Mathew Staver contended that Congress lacks authority to regulate healthcare insurance purchase decisions.

"[This law] compels employees to contract with private companies for a benefit that has never been bargained for," Staver said.

Representing Liberty University and two private individuals, Liberty Counsel's case is the first private case filed as a federal lawsuit against the health insurance law. Liberty Counsel filed the lawsuit on March 23, 2010, the same day President Obama signed the healthcare bill into law. The Liberty Counsel case is the first challenge to the healthcare law to be argued at the appellate level.

Staver argued that the health insurance law makes reforms and forces everyone to participate by purchasing a certain kind of health insurance or paying a penalty. If the government has the ability to force unwilling participants to buy health insurance, Staver contended, then there is no limit on the government's power.

"If you were to allow Congress to force the purchase of health insurance on the private market, you would therefore have to allow Congress to regulate the food industry to force certain kinds of food to be consumed," Staver said.

Liberty Counsel's case specifically argues that Congress lacks authority under the Commerce Clause, the Necessary and Proper Clause, and the Taxing and Spending Clause. Liberty Counsel raises additional constitutional objections, including the First Amendment Free Exercise of Religion, the federal Religious Freedom Restoration Act, the First Amendment Establishment Clause and the Fifth Amendment Equal Protection Clause.

The Liberty Counsel case was followed by oral argument in the case *Commonwealth of Virginia v. Sebelius*, which is arguing against the same law. That case challenges the individual mandate, while Liberty University's case challenges both the individual and the employer mandates.

During oral argument, the Acting Solicitor General, who argued for the United States, acknowledged that the law was unprecedented. He also admitted that he believed Congress could force individuals to buy certain foods, like wheat.

"To hear the Acting Solicitor General admit that if the court upheld this massive health insurance law, then Congress could force individuals to purchase certain kinds of food was an astonishing, but true, admission. If *Obamacare* is upheld, then Congress would no longer have any limitations on its regulatory power. Today it is health insurance, and tomorrow it could be food, transportation, or housing," Staver says. "Big Brother would be able to be the CEO of every business and dictate our private choices. The implications are staggering. This law is the beginning of centralized government. The stakes in the outcome of this case could not be higher."

"Based on the oral argument in court today, it seems highly likely that the three-judge court will uphold the Affordable Care Act's individual responsibility provision. Like most federal district court decisions so far, it appears that the challenges to the new law will be rejected," said Ron Pollack, executive director of Families USA, who supports the

legislation.

“By upholding this provision and rejecting the politically motivated lawsuit, the judges are protecting insurance purchasers from paying much higher premiums to cover the health care costs of those who refuse to buy health insurance and don’t pay for the health care they inevitably receive.”

No matter which way the court rules, most legal experts agree that the Supreme Court will take the case because of its importance.