

Businessman Sues Government for Religious Violation

A first-of-its-kind federal lawsuit was filed last week against the Department of Health and Human Services (HHS) challenging a new mandate a Missouri business owner says violates his constitutionally protected religious beliefs.

The lawsuit is focused on an HHS mandate requiring employers to purchase health insurance for their employees that includes coverage for contraceptives, sterilization and abortion-inducing drugs.

The American Center for Law and Justice lawsuit has two goals: to protect the business owner and to convince the court to issue a permanent injunction prohibiting HHS from requiring people with religious objections to abide by the mandate.

The lawsuit marks the first legal challenge to the HHS mandate from a private business owner and his company. Until now, only religious organizations or institutions have brought lawsuits challenging it.

In this lawsuit, the ACLJ represents Frank R. O'Brien, who operates a number of businesses that explore, mine and process refractory and ceramic raw materials, and send their products to more than 40 countries.

"The HHS mandate would require business people like our client to leave their **religious beliefs** at home every day as a condition of doing business in our society," said Francis J. Manion, senior counsel of the ACLJ. "The HHS mandate tells people like Frank O'Brien that they have to choose between conducting their business in a manner consistent with their moral values or conducting their business in a manner consistent with the government's values. The Constitution does not allow the government to impose such a choice."

O'Brien, a Catholic, says his religious beliefs provide the framework for the operation of his businesses, which employ 87 people. The company's statement of values begins with the following: "Integrity. Our conduct is guided by the Golden Rule and the Ten Commandments. We will not discriminate based on anyone's personal belief system."

The lawsuit contends that the HHS mandate "imposes a substantial burden on Plaintiffs' free exercise of religion by coercing Plaintiffs to choose between conducting their business in accordance with their religious beliefs or paying substantial penalties to the government."

Manion rejects criticism that opposition to the mandate somehow prohibits others from obtaining insurance coverage they desire.

"O'Brien and other people of faith aren't looking to stand in the way of anybody's access to anything," said Manion. "They just don't want the government forcing them to pay for services that go against their sincerely held beliefs."

The lawsuit asks the court to declare that the HHS mandate violates the First Amendment, the Religious Freedom Restoration Act and the Administrative Procedure Act. The suit also requests that the court issue a permanent injunction to halt implementation of the HHS mandate for those who have religious objections.