

# Christian University's Obamacare Case Poised for Supreme Court Hearing

On Thursday, the Fourth Circuit Court of Appeals in Richmond, Va., cleared the way for Liberty Counsel's lawsuit, *Liberty University v. Geithner*, against the Affordable Care Act (**Obamacare**).

The court reached the legal issues and did not dismiss the case on procedural grounds. The court agreed with Liberty Counsel on the procedural questions at issue: Liberty University and the individual plaintiffs have legal standing to bring the case, and the Anti-Injunction Act (AIA) also does not bar the case from being heard.

However, the court concluded that Congress had authority under the Commerce Clause to pass the employer mandate. Liberty Counsel's case is the only one in the country that challenges the entire employer mandate. Because the case was filed before the HHS mandate was enacted, the court did not consider this issue.

Liberty Counsel may file a separate suit against the **HHS mandate** but will file a petition to the United States Supreme Court, asking the court to hear this challenge to the entire employer mandate. If they are successful in striking down the employer mandate, it will benefit both religious and nonreligious employers. The petition will also include the claim that the forced funding of abortion violates the free exercise of religion and the Religious Freedom Restoration Act with respect to individuals.

Unlike the individual mandate, the **employer mandate** exceeds Congress' enumerated powers because it imposes a heavy burden upon employers. The penalties, which can be up to \$15,000 per

day per employee, are so punitive that they will not be upheld under the Taxing and Spending Clause. This refusal will result in millions of dollars in fines annually. These excessive fines constitute an impermissible penalty.

"I am glad the court reached the merits on the employer mandate, even though the court got it wrong, because this clears the way for the case to now go to the Supreme Court," says Mat Staver, founder and chairman of Liberty Counsel.

"The Supreme Court concluded that the individual mandate cannot be upheld under the Commerce Clause because Congress cannot force people to buy an unwanted product. But this court of appeals has now decided that Congress can force employers to buy an unwanted product. As Congress cannot force individuals to buy an unwanted product, neither can it force employers to do so. I look forward to having this matter before the Supreme Court," concludes Staver.