

Unconstitutional: Christian Lawyers Ready for Final Obamacare Challenge

Obamacare is unconstitutional; on many levels. That was the argument in Liberty Counsel's final brief in *Liberty University v. Geithner* before the Fourth Circuit Court of Appeals on Wednesday. The court will hear Liberty's case against ObamaCare on May 16. Liberty Counsel represents Liberty University and two private individuals in this case.

Liberty Counsel's challenge to Obamacare is the most comprehensive case pending, challenging (1) the employer mandate; (2) the abortion mandate for religious employers; (3) the abortion mandate for individuals; and (4) the entire law because tax bills must originate in the House.

"The employer mandate exceeds Congress's enumerated powers," Mat Staver, founder and chairman of Liberty Counsel, told the court in today's brief. "The employer mandate, unlike the individual mandate, does impose a heavy burden upon employers. ... If Liberty University does not provide insurance coverage, it will be fined \$2,000 per employee per year, resulting in millions of dollars of penalties. Even if Liberty provides insurance, but refuses to provide any portion of the preventive coverage mandate (including abortifacients and IUDs), it will still be penalized \$2,000 per year for every one of its 'full time equivalent' employees. ... Liberty University cannot, as a matter of religious conviction, provide any coverage, direct or indirect, for abortion-inducing drugs or IUDs. This refusal will result in millions of dollars in fines annually. The Act coerces Liberty to violate its religious convictions under penalty of enormous fines. These excessive fines constitute an impermissible penalty."

"Obamacare represents a frontal attack to religious freedom. Obamacare is a train about to collide with the fundamental right to free exercise of religion," says Staver. "Not only does Obamacare violate the rights of religious employers because of its abortion mandate, it violates the rights of individuals who oppose abortion and the rights of all employers, religious or not."

Finally, Liberty Counsel told the court that because Obamacare was classified as a tax, it violates the Origination Clause of the Constitution, which requires all tax laws to originate in the House. ObamaCare originated as House Resolution 3590, the Service Members Home Ownership Act. After passing the House, Senate President Harry Reid completely gutted the bill, and then inserted a new title and over 2,000 pages of Obamacare.

"H.R. 3590 was not originally a bill for raising revenue," says Staver. "This is the first time that the gut-and-amend practice has been used by the Senate to impose new taxes. Our Founding Fathers wrote the Origination Clause because they wanted to keep the power to tax as close to the people as possible. Even after the 17th Amendment passed, allowing for the direct election of Senators, the Origination Clause was preserved to keep the 'power of the purse' closer to the people, through their elected Representatives. Obamacare cannot originate in the Senate and is therefore invalid."