UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION

LIBERTY UNIVERSITY, Inc., a Virginia Nonprofit corporation, MICHELE G. WADDELL, DAVID STEIN, M.D., JOANNE V. MERRILL, DELEGATE KATHY BYRON, and JEFF HELGESON Plaintiffs v. TIMOTHY GEITHNER, Secretary of the Treasury of the United States, *in his official capacity*, KATHLEEN SEBELIUS, Secretary of the United States Department of Health and Human Services, in *her official capacity,* HILDA L. SOLIS, Secretary of the United States Department of Labor, *in her official capacity,* and ERIC HOLDER, Attorney General of the United States, *in his official capacity,* Defendants	)	Case No.: 6:10-cv-00015-nkm SECOND AMENDED COMPLAINT

SECOND AMENDED COMPLAINT FOR DECLARATORY, PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF

COME NOW the Plaintiffs, LIBERTY UNIVERSITY, INC., MICHELE G. WADDELL, DAVID STEIN, M.D., JOANNE V. MERRILLL, DELEGATE KATHY BYRON and JEFF HELGESON, by and through their undersigned counsel, and respectfully request this Court to issue a Declaratory Judgment and Preliminary and Permanent Injunctive Relief. In support thereof, Plaintiffs show unto the Court as follows:

1. This is a civil action whereby Plaintiffs seek Declaratory Judgment and Preliminary and

Permanent Injunctive Relief enjoining Defendants, Timothy Geithner, in his official capacity as the Secretary of the Treasury, Kathleen Sebelius in her official capacity as Secretary of the Department of Health and Human Services, Hilda L. Solis, in her official capacity as Secretary of the Department of Labor, and Eric Holder in his official capacity as Attorney General of the United States (hereafter collectively referred to as "Defendants"), their agents, servants and employees and those acting in active concert and with actual notice thereof, from: implementing and enforcing the provisions of the Patient Protection and Affordable Care Act of 2009 (hereafter the "Act") and the Health Care and Education Reconciliation Act of 2010 (the "Reconciliation Act"), including mandatory health insurance for individuals, mandatory provision of health insurance by employers, payment of penalties for failure to obtain and maintain health insurance, insurance exchange policies that do not protect against payment for elective abortion coverage, and other provisions as set forth herein which were enacted without constitutional authority, and which violate, *inter alia*: 1) the Plaintiffs' rights to Free Exercise of Religion and Free Association, guaranteed under the First Amendment to the United States Constitution; 2) the Plaintiffs' rights to Equal Protection under the Fifth Amendment to the United States Constitution; 3) the Plaintiffs' rights to be free from governmental violation of the Establishment Clause of the First Amendment to the United States Constitution; 4) the Plaintiffs' rights to a Republican form of government under the Guarantee Clause of Article IV of the United States Constitution; 5) the Plaintiffs' rights to be free from unapportioned direct or capitation taxes under Article I, Section 9 of the United States Constitution; 6) Plaintiffs' rights under the Religious Freedom Restoration Act; 7) the Plaintiffs' rights to be free from legislative over-reaching under the Tenth Amendment to the United States Constitution; and 8) Plaintiffs Liberty University, Michele Waddell, Kathy Byron and Jeff Helgeson's rights to be free from

government mandated health insurance coverage under Section 38.2-3430.1:1 of the Code of Virginia.

2. Plaintiffs also pray for Declaratory Judgment to determine that certain provisions of the Act and Reconciliation Act, including, but not limited to, provisions which mandate that all citizens purchase health insurance coverage or face a civil penalty, that employers provide insurance coverage for full-time employees or face a civil penalty, that provide for individualized exemptions that favor certain religious sects over others, and that provide for insurance exchanges which do not protect against payment for elective abortions, are unconstitutional as a violation of the Article I Sections 8 and 9, Article IV, and the First, Fifth and Tenth Amendment to the United States Constitution and violate the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb *et. seq.*

3. An actual controversy exists between the parties involving substantial constitutional issues, in that Plaintiffs assert that certain provisions of the Act and Reconciliation Act are unconstitutional on their face and as applied in that they, *inter alia*, violate Plaintiffs' rights to Free Association and Free Exercise of Religion guaranteed under the First Amendment to the United States Constitution, violate the Establishment Clause of the First Amendment to the United States Constitution, violate the Equal Protection Clause of the Fifth Amendment to the United States Constitution, violate the Reserved Powers Clause of the Tenth Amendment, violate the Guarantee Claus of Article IV, violate the Commerce Clause of Article I, violate the prohibition against unapportioned direct or capitation taxes under Article I, while Defendants assert that the provisions in the Act and Reconciliation Act comport with the Constitution so that they are lawfully empowered to enforce and implement the Act and Reconciliation Act.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343, 1346, 2201, 2202, and 2412, and 42 U.S.C. § 2000bb et. seq.

5. This Court is authorized to grant Plaintiffs' Prayer for Relief and to award costs, including a reasonable attorney's fee, under 28 U.S.C. § 2412 5 U.S.C. §504 and 42 U.S.C. § 2000bb-1.

6. This Court is authorized to grant Declaratory Relief under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202 (1988), implemented through Rule 57 of the Federal Rules of Civil Procedure, and to issue the Preliminary and Permanent Injunctive Relief requested by Plaintiffs under Rule 65 of the Federal Rules of Civil Procedure.

7. Venue is proper under 28 U.S.C. § 1391. Each and all of the acts alleged herein were done and are to be done by Defendants, and each of them, not as individuals, but under the color and pretense of statutes, ordinances, regulations, customs, and uses of the United States of America, including the Act and the Reconciliation Act.

PARTIES

8. Plaintiff Liberty University, Inc., is a not-for-profit corporation organized and existing under the laws of the Commonwealth of Virginia, which operates a private Christian university principally located in the city of Lynchburg, Virginia.

9. Plaintiff Michele G. Waddell is a natural born person and citizen of the United States of America and a resident of the Commonwealth of Virginia. She is more than 26 years of age and not yet eligible for Medicare.

10. Plaintiff Dr. David Stein is a natural born person and citizen of the United States of American and of the state of Wisconsin. He is a licensed and practicing medical doctor.

11. Plaintiff Joanne V. Merrill is a natural born person and citizen of the United States of America and the state of Florida. She is more than 26 years of age and not yet eligible for Medicare.

12. Plaintiff Kathy Byron is a delegate to the Virginia House of Delegates in good standing. She objects to the Act and Reconciliation Act and their purported mandate to require states to perform certain actions implementing the Act and Reconciliation Act which dramatically alter the balance of powers between the federal and state governments.

13. Plaintiff Jeff Helgeson is a natural born person and citizen of the United States of America and the Commonwealth of Virginia who lives in Lynchburg, Virginia. He has been elected to City Council of the City of Lynchburg, Virginia, to the Third Ward District. He objects to the Act and Reconciliation Act and the injury they will do to the employers and citizens of his City.

14. Defendant Timothy Geithner is the Secretary of the Treasury for the United States of America, responsible for formulating economic and tax policy, managing the public debt, and overseeing the collection of taxes and enforcement of the tax laws of this country, including the tax laws enacted and amended by the Act and Reconciliation Act.

15. Defendant Kathleen Sebelius is the Secretary of the Department of Health and Human Services of the United States of America, responsible for the operation of the largest civilian department in the federal government and the administration of federal health programs, including Medicare and Medicaid and health insurance programs established under the Act and Reconciliation Act.

16. Defendant Hilda L. Solis is the Secretary of Labor for the United States of America and is responsible for overseeing government programs, such as the Occupational Health and Safety

Administration, analyzing and tracking employment data, and recommending and enforcing labor laws, including the laws enacted and amended in the Act and Reconciliation Act.

17. Defendant Eric Holder is the Attorney General of the United States of America who heads the United States Department of Justice and is the chief law enforcement officer of the United States responsible for enforcing the laws of the United States including the laws enacted and amended in the Act and Reconciliation Act.

18. Each of the Defendants is sued in his or her official capacity only.

STATEMENT OF FACTS

19. On March 23, 2010, the President of the United States signed into law H. R. 3590, the Patient Protection and Affordable Care Act of 2009 (the "Act").

20. On March 30, 2010, the President of the United States signed into law H.R. 4872, the Health Care and Education Reconciliation Act of 2010 (the "Reconciliation Act").

21. Neither the Act nor the Reconciliation Act contains a severability clause.

22 Plaintiff Liberty University is a private Christian university founded in Lynchburg, Virginia in 1971 by Dr. Jerry Falwell, the late pastor of Thomas Road Baptist Church (the "Church"), who founded the University as an outgrowth ministry of the Church.

23. Jerry Falwell Jr. is the son of Dr. Jerry Falwell and is the Chancellor and CEO of Liberty University.

24. Liberty University, originally known as Lynchburg Baptist College and subsequently Liberty Baptist College, used the Church's educational facilities. The Church and the University are located on the same contiguous property and continue to share some facilities.

25. The Commonwealth of Virginia granted the University permission to award degrees in 1974. The Commission on Colleges of the Southern Association of Colleges and Schools

(SACS) granted the University candidate status for accreditation in June 1977 and accreditation in December 1980. In 1986, 1996, and 2006, SACS reaffirmed the University's accreditation.

26. Liberty University has eleven colleges, including the School of Aeronautics, Center for Academic Support and Advising Services, College of Arts and Sciences, Helms School of Government, School of Business, School of Communication, School of Education, School of Engineering and Computational Sciences, School of Religion, School of Law, and Liberty Baptist Theological Seminary and Graduate School.

27. Liberty University enrolls approximately 12,000 residential students and more than 40,000 students in its online program throughout the world.

28. Liberty University employs approximately 466 full-time faculty, 1,362 adjunct faculty, 2,072 staff members and 1,242 students who are located in Lynchburg, Virginia and other states throughout the United States.

29. Liberty University is self-insured and makes available health savings accounts, private insurance policies and other healthcare reimbursement options to qualified employees under a salary reduction program. Currently, 1,879 employees have chosen to participate in health insurance coverage, which covers approximately 4,340 lives.

30. Liberty University does not mandate that its qualified employees accept healthcare coverage, and some employees make personal decisions to not obtain healthcare coverage through a payroll deduction.

31. Liberty University has chosen health care reimbursement options that provide the type and level of health care services that are desirable to its employees and consistent with the University's core Christian values–including the sanctity of human life from conception to natural death. The Act and Reconciliation Act dictate, under penalty of civil fine, that Liberty

University provide what the federal government defines as "minimum essential coverage" without regard for whether the health care services contained within that definition are essential to the University employees' physical or financial situation or are services which violate the University's and its employees' Christian values.

32. Liberty University does not cover abortion under its health insurance coverage.

33. Abortion is contrary to the Christian mission of Liberty University.

34. Plaintiff Michele G. Waddell is generally healthy, has made a personal choice not to purchase health insurance coverage and does not want to purchase health insurance coverage. She is a student and not presently employed. Ms. Waddell receives the health care services she needs and desires and pays for them as she uses them. The Act and Reconciliation Act mandate, under penalty of civil fine, that Ms. Waddell purchase health insurance and dictate that said insurance must include what the federal government defines as "minimum essential coverage" without regard for whether the health care services contained within that definition are essential to Ms. Waddell's physical or financial situation or are services to which she might have a conscientious or religious objection. The individual mandate in the Act and Reconciliation Act infringes upon Ms. Waddell's individual liberty and will create a financial hardship in that she will have to either pay for health insurance coverage that is not necessary or desirable or face significant penalties as set forth in the Act and Reconciliation Act.

35. Plaintiff Dr. David Stein is a physician practicing in Milwaukee, Wisconsin, and is board certified by the American Board of Pain Medicine and the American Board of Anesthesiology, which means he has successfully met the highest standards of his profession. Dr. David Stein has a relationship with numerous private insurance plans, accepts Medicare and Medicaid and is affiliated with six hospitals. Implementation of the Act and Reconciliation Act, including the

additional layers of bureaucratic regulation imposed upon practitioners, and particularly upon practitioners who accept Medicare and Medicaid, will interfere with Dr. Stein's liberty interest in practicing his profession and providing essential health care services for his patients.

36. Dr. Stein is among the overwhelming majority of physicians–according to a September 2009, Investors Business Daily (IBD) report, 65 percent to 72 percent of physicians–who oppose a federal overhaul of the health care system and disagree with claims that government plans such as the Act and Reconciliation Act will provide quality care to more patients at a lower cost.

37. The Act and Reconciliation Act will significantly and adversely affect Dr. Stein's practice and the ability of his patients, particularly low-income and senior citizen patients, to receive essential health care services in a timely and efficient fashion. Under the Act and Reconciliation Act, Dr. Stein will have to comply with additional, as yet unenumerated regulations as a condition of receiving reimbursement for treating his patients who have health coverage through Medicaid and Medicare. Dr. Stein will have to meet certain "quality reporting" standards and will have to attain an undefined quality of care to cost ratio that the federal government will deem appropriate or face reductions in Medicare reimbursement rates, with no administrative or judicial recourse. With no standards to guide the government's determination of appropriate quality of care to cost ratios, Dr. Stein will be faced with uncertainty regarding his ability to provide appropriate care to his patients at a reimbursement rate that will permit him to continue his medical practice.

38. Plaintiff Joanne V. Merrill has elected not to purchase health insurance coverage and does not want to purchase health insurance coverage. She has tried historically to retain control of her healthcare decisions and to try to ensure that her funds are not co-mingled in a way that would advance abortion of any kind. The Act and Reconciliation Act mandate, under penalty of

civil fines, that Ms. Merrill purchase health insurance and dictate that said insurance must include what the federal government defines as "minimum essential coverage" without regard for whether the health care services contained within that definition are essential to Ms. Merrill's physical or financial situation or are services to which she might have a conscientious or religious objection. The individual mandate in the Act and Reconciliation Act infringes upon Ms. Merrill's individual liberty and will create a financial hardship in that she will have to either pay for health insurance coverage that is not necessary or desirable or face significant penalties as set forth in the Act and Reconciliation Act.

39. Plaintiff Kathy Byron is a member of the House of Delegates of the Commonwealth of Virginia, serving the 22nd District. Delegate Byron voted for Bill H.10, which becomes effective July 1, 2010 and amends the Code of Virginia to add section 38.2-3430.1:1:

> § 38.2-3430.1:1. Health insurance coverage not required.
> No resident of this Commonwealth, regardless of whether he has or is eligible for health insurance coverage under any policy or program provided by or through his employer, or a plan sponsored by the Commonwealth or the federal government, shall be required to obtain or maintain a policy of individual insurance coverage. No provision of this title shall render a resident of this Commonwealth liable for any penalty, assessment, fee, or fine as a result of his failure to procure or obtain health insurance coverage. This section shall not apply to individuals voluntarily applying for coverage under a state-administered program pursuant to Title XIX or Title XXI of the Social Security Act.

40. The Act and Reconciliation Act violate Virginia law and the constitutional doctrine of separation of powers, the Guarantee Clause in Article IV of the United States Constitution and Reserved Powers doctrine in the Tenth Amendment to the United States Constitution, as set forth herein, in a manner that violates Delegate Byron's rights as an elected representative of the people of the Commonwealth of Virginia.

41. Plaintiff Lynchburg City Council Member Jeff Helgeson represents the district where Liberty University is located within the city of Lynchburg, Virginia. Implementation of the Act will have a negative impact on the city of Lynchburg, generally, and his district, in particular. Plaintiff Jeff Helgeson is also self-employed and will be subject to the Act's requirement that he purchase what the federal government defines as minimal essential health insurance coverage or pay penalties.

42. Section 1501 of the Act adds Section 5000A to the Internal Revenue Code of 1986. Section 500A mandates that, with only four exceptions, all individuals must obtain and maintain "minimum essential healthcare coverage" for themselves and their families (the "Individual Mandate").

43. Section 1302 of the Act provides that the Secretary of Health and Human Services, presently Defendant Sebelius, shall define what constitutes essential health benefits, but that such benefits must include ambulatory patient services, emergency services, hospitalization, maternity and newborn care, mental health and substance use disorder services, including behavioral health treatment, prescription drug coverage, rehabilitative and habilitative services and devices, laboratory services, preventive and wellness services and chronic disease management and pediatric services, including oral and vision care.

44. Section 1302 of the Act further provides that minimum essential healthcare coverage cannot require out of pocket costs of more than approximately $5,000 per year for an individual plan or $10,000 per year for a family plan, or, in the case of employer-sponsored plans, cannot require out of pocket costs of more than approximately $2,000 per year for an individual plan or $4,000 per year for a family plan.

45. Section 1302 of the Act further provides that minimum essential healthcare coverage means that plans provide certain levels of coverage, denominated as "bronze," "silver," "gold," and "platinum," which cover from 60 percent to 90 percent, respectively, of the full actuarial value of the benefits provided under the plans.

46. Section 1302 of the Act provides for a "catastrophic plan" that covers essential health benefits only after an individual has spent more than $5,000 in out of pocket costs but such a plan is only available to individuals who are under age 30 or who demonstrate certain financial hardships. Under Section 1302 of the Act, a "catastrophic plan" cannot be offered as part of a group benefits plan.

47. Section 1501 of the Act provides that, beginning on January 1, 2014, an individual who fails to obtain and maintain minimum essential healthcare coverage as defined in Section 1302, is subject to a penalty in an amount equal to the lesser of the national average premium for a "bronze" level health insurance plan or the greater of a graduated flat dollar amount or graduated percentage of the difference between household income and gross income.

48. Section 1501 of the Act provides that the penalty imposed for failure to maintain minimum essential healthcare coverage shall be payable as part of an individuals income tax return.

49. The Act grants the Secretary of the Treasury, presently Defendant Geithner, the power to collect said penalties as part of his oversight of the Internal Revenue Service.

50. In Section 1501 of the Act, Congress makes findings that the Individual Mandate is commercial and economic in nature and substantially affects interstate commerce in that it regulates economic and financial decisions about how and when healthcare is paid for and when health insurance is purchased. Congress makes further findings that health insurance is a

significant part of the economy, and that insurance is interstate commerce so that the Individual Mandate can be viewed as part of Congress's power under the Commerce Clause, Article I, Section 8 of the Constitution.

51. Prior to passage of the Act, the Senate expressed some concerns about whether it had power to adopt the Individual Mandate under the Commerce Clause, and the Senate Finance Committee asked the Congressional Research Service for an opinion on the constitutionality of the individual mandate. The Service replied: "Whether such a requirement would be constitutional under the Commerce Clause is perhaps the most challenging question posed by such a proposal, as it is a novel issue whether Congress may use this Clause to require an individual to purchase a good or a service." Cong. Research Serv. *Requiring Individuals to Obtain Health Insurance: A Constitutional Analysis* 3 (2009).

52. As the Congressional Research Service opinion indicates, Congress's power under the Commerce Clause does not embrace the Individual Mandate in that the Individual Mandate is not regulating a commercial transaction between two parties but is imposing upon a party who has chosen not to engage in interstate commerce, such as Plaintiffs Waddell and Merrill, an obligation to engage in interstate commerce. As such, the Individual Mandate is antithetical to the Commerce Clause's power in that it seeks to regulate inherently noncommercial activity or inactivity that does not affect interstate commerce and to interfere with the private economic decisions made by Plaintiffs Michele Waddell and Joanne Merrill and other similarly situated individuals who elect not to engage in commerce by purchasing health insurance policies.

53. Internal Revenue Code Section 5000A, added by Section 1501 of the Act, exempts four categories of individuals from the Individual Mandate: those who are incarcerated, those who are

not legally present in the country, and those who qualify for two very specific and limited "religious exemptions."

54. The first of the "religious exemptions" provided under Section 1501 exempts individuals who satisfy Section 1402(g)(1) of the Internal Revenue Code, which provides exemptions for those who are "a member of a recognized religious sect or division thereof and is an adherent of established tenets or teachings of such sect or division by reason of which he or she is conscientiously opposed to acceptance of the benefits of any private or public insurance which makes payments in the event of death, disability, old-age, or retirement or makes payments toward the cost of, or provides services for, medical care (including the benefits of any insurance system established by the Social Security Act [42 USCS §§ 301 *et seq*.]) and an adherent of established tenets or teachings of such sect or division as described in such section," provided that "it is the practice, and has been for a period of time which he deems to be substantial, for members of such sect or division thereof to make provision for their dependent members which in his or her judgment is reasonable in view of their general level of living, and such sect or division thereof has been in existence at all times since December 31, 1950."

55. Liberty University is a Christian educational institution and Plaintiffs Waddell, Merrill and Helgeson are Christians, but none of the Plaintiffs is "a member of a religious sect or adherent of established tenets or teachings" as described in Section 1501 and, therefore, all are prohibited from exercising a religious exemption under the Act regardless of whether they have religious objections to the Individual Mandate or other provisions in the Act.

56. The other "religious exemption" to the Individual Mandate under Section 1501 of the Act exempts individuals who are members of a "healthcare sharing ministry," defined as a 501(c) (3) organization, members of which share a common set of ethical or religious beliefs and share

medical expenses among members in accordance with those beliefs, retain membership even after developing a medical condition, and which have been in existence at all times since December 31, 1999.

57. Liberty University is a 501(c) (3) organization, which is also affiliated with the Church, whose employees and trustees share a common set of ethical or religious beliefs. However, Liberty University is precluded from the "healthcare sharing ministry" exemption provided under the Act because it did not institute the sharing of medical expenses as of December 31, 1999. The arbitrary inclusion of the date December 31, 1999 unreasonably precludes Liberty University from forming a healthcare sharing ministry to provide health coverage for its employees in a manner that does not violate their sincerely held religious beliefs in the way that the coverage required under the Act does, as set forth herein.

58. Section 1511 amends the Fair Labor Standards Act of 1938 by inserting Section 18A, which requires that an employer with more than 200 full-time employees which offers one or more health benefits plans shall automatically enroll new full-time employees in one of the plans offered and continue the enrollment of current employees in a health benefits plan offered through the employer, subject to the employee being provided an opportunity to opt out of coverage.

59. Section 1513 of the Act imposes a penalty upon employers who employ 50 or more full-time workers by adding to the Internal Revenue Code Section 4980H, which provides that employers with more than 50 full-time employers will be subject to tax penalties if any of their employees receive federally subsidized tax credits or premium payment adjustments.

60. Under Section 1513, if an employer does not offer minimum essential coverage to its employees and any employee purchases alternative coverage and receives a federal subsidy, then the employer will pay a penalty equal to $2,000 per employee per year.

61. Under Section 1513, if an employer offers at least minimum essential coverage to its employees, but it is deemed to not be affordable under the Act so that the employee has to receive a federal subsidy, then the employer will be assessed a penalty in the amount of $3,000 per employee per year.

62. Liberty University offers healthcare coverage to its full-time employees, but, depending upon how the federal government defines "minimum essential coverage" and the affordability index, could be determined to not offer coverage sufficient to satisfy the federal definition of minimum essential coverage or coverage that is deemed unaffordable under Section 1513 and therefore could be subjected to significant penalties under that section, subjecting the University, as a non-profit institution, to substantial financial hardship.

63. Section 9002 of the Act amends the Internal Revenue Code to require that employer provided healthcare coverage be included as part of an employees' income to be reported to the Internal Revenue Service and subject to taxation beginning January 1, 2011.

64. Section 9003 of the Act amends the Internal Revenue Code to provide that only prescription drugs and insulin will be categorized as permissible medical expenses for purposes of health savings account or flexible spending account funds, beginning January 1, 2011. Health savings accounts permit employees to deposit their funds into tax-free portable accounts in order to save for routine medical care or future medical expenses.

65. Section 9004 of the Act amends the Internal Revenue Code to increase the penalty paid for use of health savings account funds for non-medical expenses from 10 percent to 20 percent

beginning on January 1, 2011. As a result of Section 9003 of the Act, funds spent on prescriptions, over-the-counter medications and hygiene items, which were included as reimbursable medical expenses for health savings account and flexible spending accounts will be subject to the 20 percent penalty as non-medical expenses.

66. Section 9005 of the Act amends the Internal Revenue Code to limit taxpayer contributions to health flexible spending arrangements to $2,500 per year beginning January 1, 2013.

67. Section 1402 of the Reconciliation Act amends the Internal Revenue Code to impose a 3.8 percent Medicare tax on unearned income, including income from interest, dividends, annuities, royalties, and rents, of more than $200,000 for individuals or $250,000 for married couples, effective January 1, 2013.

68. Section 1311 of The Act mandates that, not later than January 1, 2014, each state create an American Health Benefit Exchange ("Exchange"), which must be a governmental agency or nonprofit entity created by the state that must make available "qualified health plans" to "qualified individuals" and "qualified employers."

68. Section 1311 of the Act provides that the Secretary of Health and Human Services, presently Defendant Sebelius, shall determine whether an insurance coverage plan can be certified as a "qualified health plan" for purposes of an Exchange. Section 1311 states that a qualified plan shall not be required to provide coverage for any specific medical procedure, but otherwise does not limit the Secretary's discretion in defining benefits to be made available under qualified health insurance plans for Exchanges.

69. Section 1303 of the Act provides that states may, but are not required to, elect to prohibit abortion coverage in qualified health plans offered through an Exchange, but only if the State

enacts a law to provide for such prohibition. Section 1303 further provides that a state may repeal such a law at any time and thereby provide for abortion coverage in qualified health plans offered through an Exchange.

70. Section 1303 of the Act further provides that if a state elects to provide for abortion coverage in qualified health plans, then the state must segregate funds to ensure that no federal funds received by the Exchange are used to fund abortions for which federal funding is prohibited. However, Section 1303 does not require that non-federal funds received from either individual or employer enrollees in the qualified health care plans be so segregated to prevent the funds from being used to fund abortions.

71. Plaintiffs Michele G. Waddell and Joanne V. Merrill are Christians and Plaintiff Liberty University is a Christian educational institution whose employees are Christians who believe that they should live out their sincerely held religious beliefs in everyday life, including the various choices they make in ordering their daily affairs.

72. Plaintiffs Michele G. Waddell and Joanne V. Merrill are Christians and Plaintiff Liberty University is a Christian educational institution whose employees are Christians who have sincerely held religious beliefs that abortions, except where necessary to save the life of the pregnant mother, are murder and morally repugnant.

73. Plaintiffs Michele G. Waddell and Joanne V. Merrill are Christians and Plaintiff Liberty University is a Christian educational institution whose employees are Christians who have sincerely held religious beliefs that they should play no part in such abortions, including no part in facilitating, subsidizing, easing, funding, or supporting such abortions since to do so is evil and morally repugnant complicity.

74. Plaintiffs Michele G. Waddell and Joanne V. Merrill are Christians and Plaintiff Liberty University is a Christian educational institution whose employees are Christians who have sincerely held religious beliefs that they should not formally associate with or in any way yoke themselves with those who would facilitate, subsidize, ease, fund or support such abortions.

75. Plaintiff Liberty University has a sincerely held religious belief that it should play no part in abortions, including no part in facilitating, subsidizing, easing, funding, or supporting abortions since to do so is evil and morally repugnant complicity.

76. Plaintiff Liberty University has a sincerely held religious belief that it should not formally associate with or in any way be yoked with those who would facilitate, subsidize, ease, fund or support abortions.

77. Section 5210 of the Act amends Section 204 of the Public Health Service Act, which established the Regular Corps and Reserve Corps. Section 5210 re-designates the Reserve Corps as the Ready Reserve Corps and provides that effective immediately members of the Ready Reserve Corps on active duty become members of the Regular Corps. Under the Public Health Service Act, officers of the Regular Corps are to be appointed by the President with the advice and consent of the Senate, but Reserve Corps are appointed by the President with no advice and consent of the Senate.

78. Article I, Section 8 of the United States Constitution grants Congress the power to raise and support armies, and provides that no appropriation of money to that use can be made for more than two years.

79. By providing that members of the Ready Reserve Corps are assimilated into the Regular Corps, Section 5210 grants the President the power to appoint officers that will immediately become members of a standing army without the advice and consent of the Senate, in violation

of Article I, Section 8. Section 5210 also violates Article I, Section 8 by appropriating funds for the Ready Reserve Corps, which become Regular Corps, for more than two years.

80. Article IV, Section 4 of the United States Constitution provides that "The United States shall guarantee to every State in the Union a Republican Form of Government." Plaintiffs, as citizens of the United States and of their individual states of residence, are guaranteed a Republican form of government, in which the rule of law prevails and separation of powers is observed.

81. The Act and the Reconciliation Act infringe upon Plaintiffs' right to a Republican form of government in that they were enacted without constitutional authority, they invest the federal government with powers reserved to the people and to the states under the Tenth Amendment, they violate the individual rights granted to Plaintiffs under the First and Fifth Amendments to the United States Constitution and infringe upon Plaintiffs' liberty interests in managing their personal and financial affairs without interference of the federal government.

82. Article I, Section 9 of the United States Constitution prohibits the imposition of unapportioned capitation or direct taxes.

83. Section 1501(b) of the Act imposes a penalty in the form of a tax, as of January 1, 2014, on any taxpayer who fails to demonstrate that he has what the federal government deems to be "minimum essential coverage" for health care costs.

84. The penalty imposed by Section 1501(b) is imposed directly on individual taxpayers and is not apportioned according to the Census or any other population-based measurement. As such, the penalty imposed by Section 1501(b) imposes an unapportioned direct tax upon taxpayers in violation of Article I, Section 9 of the United States Constitution.

85. The penalty imposed by Section 1501(b) infringes upon Plaintiffs' rights to be free from improper taxation and is likely to cause significant financial hardships to some or all of the Plaintiffs.

86. Section 1513 of the Act imposes a penalty in the form of a tax, as of January 1, 2014, on any employer of 50 or more full-time workers which either does not offer what the federal government deems to be "minimum essential coverage" or which offers what the federal government deems to be "minimum essential coverage" but is not what the government deems to be "affordable."

87. The penalty imposed by Section 1513 is imposed directly upon employers and is not apportioned according to the Census or any other population-based measurement. As such, the penalty imposed by Section 1513 imposes an unapportioned direct tax upon employers in violation of Article I, Section 9 of the United States Constitution.

88. Imposition of the tax infringes upon Liberty University's rights to be free from improper taxation and is likely to place a significant financial burden upon Liberty University, a non-profit Christian educational institution.

89. Sections 2201 to 2213 of the Reconciliation Act make sweeping changes to federal student loan programs, including but not limited to termination of the Federal Family Education Loan program, termination of the federal loan consolidation program and termination of unsubsidized Stafford Loans for middle-income taxpayers, effective July 1, 2010.

90. Plaintiff Liberty University receives funds from the federal student loan programs being terminated by the Reconciliation Act.

91. Termination of the programs poses a significant hardship to the University, which must institute immediate and substantial changes, at great expense, to revise its student financial aid

programs to account for the loss of the federal student loan programs that will be effective just as students are receiving funds for the upcoming academic term.

92. The Reconciliation Act does not contain a severability provision. To the extent that the Reconciliation Act violates Plaintiffs' rights under the United States Constitution, as described herein, the changes to the federal student loan program enacted in the Reconciliation Act are unconstitutional and ineffective for the University and other educational institutions, resulting in substantial injury to the University in the form of lost time and resources pursuing changes that were void *ab initio*.

93. The Act and Reconciliation Act, as to be implemented and enforced by Defendants have caused, and will continue to cause, the Plaintiffs to suffer undue and actual hardship and irreparable injury.

94. Plaintiffs have no adequate remedy at law to correct the continuing deprivations of their most cherished constitutional liberties.

COUNT I – THE ACT AND RECONCILIATION ACT ARE AN ULTRA VIRES ACTS OF CONGRESS WHOLLY UNSUPPORTED BY ANY POWERS DELEGATED TO CONGRESS UNDER THE CONSTITUTION.

95. Plaintiffs hereby reiterate and adopt each and every allegation in the preceding paragraphs numbered 1 through 94.

96. The Act and Reconciliation Act violate the United States Constitution insofar as they impose mandates upon Plaintiffs and other individuals and employers that require participation in interstate commerce by purchasing health insurance coverage for themselves and/or their employees without regard for financial, economic, social, religious and cultural considerations which affect the individuals' and employers' particular decisions.

97. The Act and Reconciliation Act, including their Individual Mandate and employer

mandate, are not authorized under the powers delegated to Congress under the Commerce Clause, Article I, Section 8, clause 3 of the Constitution in that they do not regulating interstate commerce but require that individuals purchase a good or a service.

98. Plaintiffs' and other individuals' and employers' decisions to not purchase health insurance is a decision not to engage in interstate commerce, i.*e.*, economic inactivity, not economic activity regulated by the Commerce Clause.

99. Requiring Plaintiffs and other citizens to engage in commercial activity by purchasing health insurance constitutes involuntary commercial activity, and therefore is beyond the scope of Congress's authority under the Commerce Clause, which reaches only voluntary interstate commercial activity.

100. The noneconomic inactivity of citizens declining to purchase health insurance does not result in substantial direct economic effects sufficient to warrant Congressional action under the Commerce Clause. Any effects upon commerce resulting from a decision not to purchase health insurance are at best indirect, insubstantial, and local.

101. The Individual Mandate in the Act and Reconciliation Act is not authorized under the powers delegated to Congress under the General Welfare Clause, which only grants spending power to Congress and does not grant Congress power to regulate private choices not to spend.

102. The Individual Mandate in the Act is not authorized by the Taxing and Spending Clause, Article I, Section 8, clause 1 of the Constitution, which only grants Congress the power to impose taxes upon certain purchases, not to impose taxes upon citizens who choose not to purchase something such as health insurance.

103. Furthermore, the Individual Mandate in the Act and Reconciliation Act is not authorized under the Taxing and Spending Clause because Congress is required to impose any tax equally and not disproportionately, as is the case with the Individual Mandate.

104. The Individual Mandate in the Act is not authorized by the powers granted to Congress in the Sixteenth Amendment to the Constitution to tax income in that the Act and Reconciliation Act impose taxes upon individuals who fail to purchase health insurance regardless of whether they produce any income.

105. The individual and employer mandates and their attendant burdensome regulations will directly and negatively affect the doctor-patient relationship, increase the cost of care, decrease the quality of care, and drive many healthcare providers away from providing care.

106. The individual and employer mandates will directly and negatively affect Plaintiff Liberty University by increasing the cost of providing health insurance coverage and thus directly affect the ability of the University to carry on its mission.

107. The mandates will interfere with the sovereignty of state and local governments, will increase the cost of providing Medicare and Medicaid coverage, and will thus negatively affect the budgets and operations of state and local governments.

WHEREFORE, Plaintiffs respectfully pray that the Court grant the declaratory and injunctive relief set forth herein and award such other relief to Plaintiffs as is reasonable, just and necessary.

COUNT II -- VIOLATION OF THE TENTH AMENDMENT

108. Plaintiffs hereby reiterate and adopt each and every allegation in the preceding paragraphs numbered 1 through 107.

109. The Act and Reconciliation Act and, in particular, the individual and employer mandates violate the Tenth Amendment to the United States Constitution.

110. The Tenth Amendment of the Constitution provides that any powers not specifically granted to Congress are reserved to the states or the people.

111. The Supreme Court has held that the power granted to Congress under the Commerce Clause includes the power to regulate the insurance industry at the federal level.

112. However, the health insurance business, and, in particular, individuals' and employers' decisions regarding whether and what kind of health insurance to purchase is a wholly local or intrastate activity beyond the scope of the powers granted to Congress under the Commerce Clause. As such, these decisions or actions are specifically reserved to the people and the states.

113. Plaintiffs Liberty University, Michele G. Waddell Joanne V. Merrill, Jeff Helgeson and Dr. David Stein have exercised their individual rights reserved under the Tenth Amendment to decide whether and what type of health insurance they will purchase or provide.

114. The individual and employer mandates in the Act and Reconciliation Act violate the rights reserved to Plaintiffs under the Tenth Amendment in mandating that individuals and employers purchase health insurance coverage in an amount and type prescribed by the federal government or face penalties in the form of increased taxes.

115. Plaintiff Delegate Kathy Byron has exercised her rights and the rights of her constituents under the Tenth Amendment, as an elected representative of the people of the Commonwealth of Virginia, to affirm and preserve the rights of its citizens to decide whether and what type of health insurance they will purchase through the enactment of Section 38.2-3430.1:1 of the Code of Virginia.

116. The Act and Reconciliation Act violate the rights of state legislators like Plaintiff Delegate Kathy Byron, and the rights of her constituents, by mandating that residents of the Commonwealth of Virginia purchase health insurance in an amount and type prescribed by the federal government in contravention of state laws that specifically prohibit such mandates against citizens of the Commonwealth.

117. Plaintiff Jeff Helgeson has exercised his rights and the rights of his constituents under the Tenth Amendment, as an elected representative of the people of the City of Lynchburg, to affirm and preserve the rights of its citizens to decide whether and what type of health insurance they will purchase.

118. The Act and Reconciliation Act violate the rights of local leader like Plaintiff Jeff Helgeson, and the rights of his constituents, by mandating that residents of the City of Lynchburg purchase health insurance in an amount and type prescribed by the federal government in contravention of state laws that specifically prohibit such mandates against citizens of the Commonwealth.

119. The Act and Reconciliation Act as to be implemented and enforced by Defendants have caused, and will continue to cause, Plaintiffs to suffer undue and actual hardship and irreparable injury. Plaintiffs have no adequate remedy at law to correct the continuing deprivations of their most cherished constitutional liberties.

WHEREFORE, Plaintiffs respectfully pray that the Court grant the declaratory and injunctive relief set forth herein and award such other relief to the Plaintiffs as is reasonable and just.

COUNT III -- VIOLATION OF THE ESTABLISHMENT CLAUSE UNDER THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION

120. Plaintiffs hereby incorporate and adopt each and every allegation in the preceding paragraphs numbered 1 through 119.

121. The First Amendment's Establishment Clause prohibits the establishment of any national religion or excessive government entanglement with religion.

122. The Act's religious exemption violates the Establishment Clause in that it grants to

Defendants discretion to determine which religion is "recognized" and demonstrates a preference for one denomination over another.

123. The Act's religious exemption is a *per se* violation of the Establishment Clause in that it vests in Defendants the right to determine what is a recognized religious sect entitled to exemption under the Act, and thereby discriminates between and among religions by preferring a "recognized" religion over one deemed not recognized.

124. The Act's religious exemption has no secular purpose.

125. The Act's religious exemption has the primary effect of advancing only recognized religions and of inhibiting Plaintiffs Liberty University, Michele G. Waddell, Joanne V. Merrill, Dr. David Stein's and Jeff Helgeson's religious beliefs.

126. The Act's religious exemption excessively entangles the government with religion by requiring the government to make doctrinal decisions concerning what is a "recognized" religion.

127. The Act's religious exemption violates the Establishment Clause by vesting in Defendants the power to determine what is orthodox in religion and by distinguishing between and favoring certain religions

128. The Act's limitation of religious exemptions to only members of certain recognized religious sects constitutes hostility toward Plaintiffs' religious beliefs.

129. The Act's exemption for healthcare sharing ministries violates Plaintiff Liberty University's rights under the Establishment Clause, in that it discriminates against Liberty University's religious beliefs by implementing an arbitrary date of December 31, 1999 for participation in a healthcare sharing plan and thereby prohibiting Liberty University and its employees from partaking in becoming or forming a healthcare sharing plan that would exempt

them from the mandates under the Act.

130. Defendants, in violation of the Establishment Clause, have caused, and will continue to cause, Plaintiffs to suffer undue and actual hardship and irreparable injury. Plaintiffs have no adequate remedy at law to correct the continuing deprivations of their most cherished constitutional liberties.

WHEREFORE, Plaintiffs respectfully pray that the Court grant the declaratory and injunctive relief set forth herein and award such other relief to Plaintiffs as is reasonable, just and necessary.

COUNT IV -- VIOLATION OF THE RIGHT TO FREE EXERCISE OF RELIGION UNDER THE UNITED STATES CONSTITUTION

131. Plaintiffs hereby reiterate and adopt each and every allegation in the preceding paragraphs numbered 1 through 130.

132. The Act and Reconciliation violate Plaintiffs' rights to free exercise of religion, as guaranteed by the First Amendment to the United States Constitution.

133. Plaintiffs Liberty University, Michele G. Waddell, Joanne V. Merrill and Jeff Helgeson's religious beliefs are sincerely and deeply held.

134. The Act and Reconciliation Act substantially burden Plaintiffs' sincerely-held religious beliefs.

135. There is no compelling government interest sufficient to justify Individual Mandate and employer insurance coverage mandates, punitive penalties and religious exemptions of the Act and Reconciliation Act.

136. The Act's and Reconciliation Act's provisions are not the least restrictive means to accomplish any permissible government purpose sought to be served.

137. The Act's and Reconciliation Act's insurance mandates and punitive penalties are not

narrowly tailored restrictions on Plaintiffs' free exercise of religion, as guaranteed by the First Amendment to the United States Constitution.

138. The Act and Reconciliation Act do not accommodate Plaintiffs' sincerely held religious beliefs.

139. The Act and Reconciliation Act target Plaintiffs' religious beliefs and are therefore not neutral or generally applicable.

140. The Act and Reconciliation Act establish a system of individualized exemptions but Plaintiffs' religious beliefs are not subject to an exemption.

141. The Act and Reconciliation Act establish categories of exemptions that do not provide exemptions for Plaintiffs' sincerely held religious beliefs.

142. The Act and Reconciliation Act create a system whereby Plaintiffs cannot protect their sincerely held religious beliefs against facilitating, subsidizing, easing, funding, or supporting abortions. Plaintiffs must choose between forced purchase of a private insurance product that does not protect their sincerely held religious beliefs or paying a punitive penalty for refusing to compromise their religious beliefs.

143. This federal government-sanctioned and mandated forced choice between individual needs and holding to sincerely held religious beliefs is a substantial burden on the sincerely held religious beliefs of Plaintiffs.

144. There is no compelling government interest sufficient to justify such provisions of The Act and Reconciliation Act.

145. Such provisions of the Act and Reconciliation Act are not the least restrictive means to accomplish any permissible government purpose sought to be served by The Act and Reconciliation Act.

146. The Act's and Reconciliation Act's provisions are not narrowly tailored restrictions on the free exercise of religion.

147. The Act's and Reconciliation Act's provisions do not accommodate Plaintiffs' sincerely held religious beliefs.

148. The Act's and Reconciliation Act's violation of Plaintiffs' rights of free exercise of religion has caused, and will continue to cause, Plaintiffs to suffer undue and actual hardship and irreparable injury.

149. Plaintiffs have no adequate remedy at law to correct the continuing deprivation of their most cherished constitutional liberties.

WHEREFORE, Plaintiffs respectfully pray that the Court grant the declaratory and injunctive relief set forth herein and award such other relief to Plaintiffs as is reasonable, just and necessary.

COUNT V -- VIOLATION OF THE RELIGIOUS FREEDOM RESTORATION ACT

150. Plaintiffs reallege paragraphs 1 through 149, and incorporate them herein.

151. The Act and Reconciliation Act substantially burden Plaintiffs Liberty University, Michele G. Waddell and Joanne V. Merrill's free exercise of religion in requiring that they risk taking part in funding abortions or pay a penalty for failing to obtain such insurance.

152. The Act and Reconciliation Act do not further a compelling governmental interest and are not the least restrictive means of furthering a compelling governmental interest.

153. The Act and Reconciliation Act violate 42 U.S.C. § 2000bb, *et seq.*, the "Religious Freedom Restoration Act." The Act's and Reconciliation Act's violation of Plaintiffs' rights under the Religious Freedom Restoration Act has caused, and will continue to cause, Plaintiffs to suffer undue and actual hardship and irreparable injury.

154. Plaintiffs have no adequate remedy at law to correct the continuing deprivation of their most cherished rights.

WHEREFORE, Plaintiffs respectfully pray that the Court grant the declaratory and injunctive relief set forth hereinafter.

COUNT VI – VIOLATION OF EQUAL PROTECTION UNDER THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION

155. Plaintiffs hereby incorporate and adopt each and every allegation in the preceding paragraphs numbered 1 through 154.

156. Plaintiffs' right to equal protection under the laws is protected by the Fifth Amendment to the United States Constitution.

157. The Act and Reconciliation Act differentiate between similarly situated religions and therefore violates the guarantee of equal protection.

158. The Act and Reconciliation Act are unconstitutional abridgements of Plaintiffs Liberty University, Michele G. Waddell, Joanne V. Merrill and Jeff Helgeson's affirmative rights to equal protection of the laws and are not facially neutral, but instead specifically target Plaintiffs' religious viewpoints.

159. The Act and Reconciliation Act are unconstitutional abridgements of Plaintiffs' right to equal protection of the law because Plaintiffs are treated differently from other similarly situated residents on the basis of religious beliefs.

160. The Act and Reconciliation Act are not supported by a compelling governmental interest sufficient to justify their enactment or enforcement against Plaintiffs.

161. The Act and Reconciliation Act are not the least restrictive means to accomplish any permissible government purpose sought to be served by their provisions.

162. The Act and Reconciliation Act do not serve a significant government interest.

163. The Act and Reconciliation Act are irrational and unreasonable and impose irrational and unjustifiable restrictions on the exercise of constitutionally protected religious beliefs.

164. Defendants, in violation of the guarantee of equal protection, have caused, and will continue to cause, the Plaintiffs to suffer undue and actual hardship and irreparable injury. Plaintiffs have no adequate remedy at law to correct the continuing deprivations of their most cherished constitutional liberties.

WHEREFORE, Plaintiffs respectfully pray that the Court grant the declaratory and injunctive relief set forth herein and award such other relief to Plaintiffs as is reasonable and just.

COUNT VII -- VIOLATION OF PLAINTIFFS' FIRST AMENDMENT RIGHTS OF FREE SPEECH AND FREE ASSOCIATION

165. Plaintiffs hereby incorporate and adopt each and every allegation in the preceding paragraphs numbered 1 through 164.

166. The Act's and Reconciliation Act's provisions create a system whereby, in order to meet the mandate to obtain private health insurance Plaintiffs either have to formally associate privately with others who are complicit in elective abortion or pay a punitive penalty.

167. The Act and Reconciliation Act, compel Plaintiffs to choose between forced purchase of a private insurance product that requires that they formally and privately associate themselves with persons with whom they strongly do not want to associate or pay a punitive penalty.

168. This federal government-sanctioned and mandated forced choice between individual rights to freely associate with others with whom they agree and not associate with those with whom they do not agree violates Plaintiffs Liberty University, Michele G. Waddell and Joanne V. Merrill's rights of free association guaranteed by the First Amendment to the United States Constitution.

169. The Act and Reconciliation Act impose fines, fees and taxes on individuals and employers that are paid in part to subsidize insurance programs that fund abortion in direct violation of Plaintiffs' conscience, moral beliefs and religious conviction, thus forcing them to subsidize and associate with people and private companies or insurance providers that fund abortion. This forced association and compelled speech is repugnant to Plaintiffs and violates their rights under the First Amendment.

170. Defendants' violation of Plaintiffs' rights of free speech and association has caused, and will continue to cause, Plaintiffs to suffer undue and actual hardship and irreparable injury.

171. Plaintiffs have no adequate remedy at law to correct the continuing deprivation of their most cherished constitutional liberties.

WHEREFORE, Plaintiffs respectfully pray that this Court will grant the declaratory and injunctive relief, as well as damages, set forth herein.

COUNT VIII – THE ACT AND RECONCILIATION ACT VIOLATE THE CONSTITUTIONAL PROHIBITION ON UNAPPORTIONED CAPITATION OR DIRECT TAX

172. Plaintiffs hereby reiterate and adopt each and every allegation in the preceding paragraphs numbered 1 through 171.

173. The Act and Reconciliation Act violate the prohibition against unapportioned capitation or direct tax set forth in Article I, Section 9 of the United States Constitution.

174. The tax penalty on uninsured persons under the Act and Reconciliation Act constitute a direct tax that is not apportioned according to Census data or other population-based measurement in violation of Article I, Section 9.

175. Defendants have caused, and will continue to cause, Plaintiffs to suffer undue and actual hardship and irreparable injury as Plaintiffs are compelled to pay an unconstitutional direct

unapportioned tax.

176. Plaintiffs have no adequate remedy at law to correct the continuing deprivations of their most cherished constitutional liberties.

WHEREFORE, Plaintiffs respectfully pray that the Court grant the declaratory and injunctive relief set forth herein and award such other relief to Plaintiffs as is reasonable and just.

COUNT IX –THE ACT AND RECONCILIATION ACT VIOLATE THE GUARANTEE OF A REPUBLICAN FORM OF GOVERNMENT

177. Plaintiffs hereby reiterate and adopt each and every allegation in the preceding paragraphs numbered 1 through 176.

178. The powers granted to Defendants under the Act and Reconciliation Act exceed the powers granted to the federal government under Articles I and II of the United States Constitution and infringe upon the powers reserved to the people and the states under the Tenth Amendment.

179. The individual and employer mandates under the Act and Reconciliation Act exceed the powers granted to Congress under Article I, Section 8, including the power to regulate interstate commerce, the power to collect taxes and provide for the general welfare, to raise and support armies with appropriations lasting no more than two years, and thereby violate Plaintiffs' rights to a Republican form of government under Article IV, Section 4 of the United States Constitution.

180. The tax penalties imposed upon individuals and employers under the Act and Reconciliation Act exceed the powers granted to Congress under Article I, Section 9 of the United States Constitution to enact only apportioned direct or capitation taxes, and thereby

violate Plaintiffs' rights to a Republican form of government under Article IV, Section 4 of the United States Constitution.

181. Exercising the powers granted to Defendants under the Act and Reconciliation Act would violate the separation of powers, which violates Plaintiffs' rights as citizens of the various states to a Republican form of government under Art. IV, Section 4 of the United States Constitution.

182. Defendants have caused, and will continue to cause, Plaintiffs to suffer undue and actual hardship and irreparable injury.

183. Plaintiffs have no adequate remedy at law to correct the continuing deprivations of their most cherished constitutional liberties.

WHEREFORE, Plaintiffs respectfully pray that the Court grant the declaratory and injunctive relief set forth herein and award such other relief to Plaintiffs as is reasonable and just.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment as follows:

A. That this Court immediately issue a Preliminary Injunction enjoining the Act, the Reconciliation Act, and the Defendants, Defendants' officers, agents, employees and all other persons acting in concert with them, from acting in any manner to implement, enforce or otherwise act under the authority of the Act or the Reconciliation Act so as to infringe upon the Plaintiffs' rights, so that:

1. Plaintiffs will not be subject to federal laws regulating people concerning subject matters for which they or their forefathers have never ceded authority to the federal government to regulate;

2. Plaintiffs will not be subject to federal laws concerning subject matters for which their state or commonwealth has never ceded authority to the federal government to

regulate;

3. Plaintiffs will not be subject to any federal law mandate to obtain, maintain or provide individual health insurance coverage where their state or commonwealth has expressly protected them as its citizens from such regulation;

4. Plaintiffs will not be subject to any federal employer or individual mandate to procure certain health insurance coverage;

5. Plaintiffs will not be subject to any federal individual mandate to procure certain health insurance coverage that does not apply to members of certain recognized religions approved by the federal government;

6. Plaintiffs will not be subject to any federal employer or individual mandate to procure health insurance coverage that precludes them from becoming, forming or joining a new "health sharing ministry" as defined by the Act and limited to those existing before 1999;

7. Plaintiffs will not be forced to choose between their sincerely held religious beliefs about abortion and support of abortion and following a mandate of the federal government;

8. Plaintiffs will not be forced to choose between exercising their rights to freely associate in private associations with those who share their convictions regarding support of abortion and following a mandate of the federal government; and

9. Plaintiffs will not be forced to suffer economic injury to their businesses, practices and personal livelihood through the overreaching comprehensive federal laws contained in the Act and the Reconciliation Act.

B. That this Court issue a Permanent Injunction enjoining the Act, the Reconciliation

and the Defendants, Defendants' officers, agents, employees and all other persons acting in concert with them, from acting in any manner to implement, enforce or otherwise act under the authority of the Act or the Reconciliation Act so as to infringe upon the Plaintiffs rights, so that:

1. Plaintiffs will not be subject to federal laws regulating people concerning subject matters for which they or their forefathers have never ceded authority to the federal government to regulate;

2. Plaintiffs will not be subject to federal laws concerning subject matters for which their state or commonwealth has never ceded authority to the federal government to regulate;

3. Plaintiffs will not be subject to any federal law mandate to obtain, maintain or provide individual health insurance coverage where their state or commonwealth has expressly protected them as its citizens from such regulation;

4. Plaintiffs will not be subject to any federal employer or individual mandate to procure certain health insurance coverage;

5. Plaintiffs will not be subject to any federal individual mandate to procure certain health insurance coverage that does not apply to members of certain recognized religions approved by the federal government;

6. Plaintiffs will not be subject to any federal employer or individual mandate to procure health insurance coverage that precludes them from becoming, forming or joining a new "health sharing ministry" as defined by the Act and limited to those existing before 1999;

7. Plaintiffs will not be forced to choose between their sincerely held religious beliefs about abortion and support of abortion and following a mandate of the federal

government;

8. Plaintiffs will not be forced to choose between exercising their rights to freely associate in private associations with those who share their convictions regarding support of abortion and following a mandate of the federal government; and

9. Plaintiffs will not be forced to suffer economic injury to their businesses, practices and personal livelihood through the overreaching comprehensive federal laws contained in the Act and the Reconciliation Act.

C. That this Court render a Declaratory Judgment declaring the Act and the Reconciliation Act null and void, and declaring the Act and the Reconciliation Act unconstitutional as a violation of Article I to the United States Constitution and the First, Fifth, and Tenth Amendments of the United States Constitution, as well as the Religious Freedom Restoration Act;

D. That this Court award Plaintiffs their reasonable costs, including attorneys' fees as provided in, *inter alia*, 28 U.S.C. § 2412 5 U.S.C. §504 and 42 U.S.C. § 2000bb-1;

E. That this Court adjudge, decree, and declare the rights and other legal relations with the subject matter here in controversy, in order that such declaration shall have the force and effect of final judgment;

F. That this Court retain jurisdiction of this matter for the purpose of enforcing this Court's order;

G. That this Court take such other actions as are necessary and proper to remedy Plaintiff's injuries; and

H. That this Court grant such other and further relief as this Court deems equitable and just under the circumstances.

Dated this 30th day of July, 2010.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

On July 30, 2010, I electronically filed this document through the ECF system, which will send a notice of electronic filing to the following:

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