IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

THE ROMAN CATHOLIC DIOCESE OF DALLAS, *Plaintiff*, v. **KATHLEEN SEBELIUS, in her official capacity as Secretary of the U.S. Department of Health and Human Services; HILDA SOLIS, in her official capacity as Secretary of the U.S. Department of Labor, TIMOTHY GEITHNER, in his official capacity as Secretary of the U.S. Department of Treasury; U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES; U.S. DEPARTMENT OF LABOR; and U.S. DEPARTMENT OF TREASURY,** ***Defendants.***	)	**Civil Action No. ____________** **DEMAND FOR JURY TRIAL**

PLAINTIFF'S ORIGINAL COMPLAINT

1. This lawsuit is about one of America's most cherished freedoms: the freedom to practice one's religion without government interference. It is not about whether people have a right to abortion-inducing drugs, sterilization, and contraception. Those services are freely available in the United States, and nothing prevents the Government itself from making them more widely available. Here, however, the U.S. Government seeks to require The Roman Catholic Diocese of Dallas[1] ("Plaintiff," "Diocese of Dallas," or the "Diocese") to violate its sincerely held religious beliefs by providing, paying for, and/or facilitating access to those

[1] The Roman Catholic Diocese of Dallas is a nonprofit religious organization organized and existing according to the Code of Canon Law of the Roman Catholic Church and recognized by the State of Texas. The Diocese is a Roman Catholic religious entity under the pastoral care of Bishop Kevin J. Farrell, D.D.

services. American history and tradition, embodied in the First Amendment to the United States Constitution and the Religious Freedom Restoration Act ("RFRA"), safeguard religious entities from such overbearing and oppressive governmental action. Plaintiff therefore seeks relief in this Court to protect this most fundamental of American rights.

2. Since the founding of this country, religious organizations such as Plaintiff have been free to fulfill their religious beliefs through service to the underprivileged and underserved. As a result, the Diocese currently serves thousands of people whom the Government does not or cannot serve. Without Plaintiff's assistance, many of the recipients of Plaintiff's services would be without shelter, food, prenatal health, medical care, and vital educational opportunities. Plaintiff is compelled by its religious beliefs to provide these services. Plaintiff is also compelled by its religious beliefs to avoid the provision of abortion-inducing drugs and the facilitation of sterilization services and contraception. But the U.S. Government has now promulgated regulations that attempt to force Plaintiff to violate its religious beliefs by either scaling back its social service or violating its beliefs on the sanctity of life. This government interference with Plaintiff's religious beliefs violates the U.S. Constitution and federal law.

3. The U.S. Constitution and federal statutes protect religious organizations from governmental interference with their religious views—particularly minority religious views. The Constitution and federal law thus stand as a bulwark against oppressive government actions even if supported by a majority of citizens. This "wall of separation between church and state" is critical to the preservation of religious freedom. As the Supreme Court has recognized, "[t]he structure of our government has, for the preservation of civil liberty, rescued the temporal institutions from religious interference. On the other hand, it has secured religious liberty from the invasion of civil authority."

4. The Government is now attacking Plaintiff's religious liberties. Current Federal law described below (the "U.S. Government Mandate") requires religious organizations such as Plaintiff to violate their centuries' old teachings on the sanctity of human life by providing coverage for abortion-inducing drugs, sterilization services, contraception, and related counseling services. The Government has not shown any compelling need to force religious organizations to provide coverage for these services, and in fact, has chosen to make exemptions to the law both for religious and non-religious reasons. If the Government can force religious institutions to violate their beliefs in such a manner, there is no apparent limit to the Government's power to interfere with the free practice of one's religious beliefs.

5. Such trampling of religious freedom violates Plaintiff's clearly established federal constitutional and statutory rights. The First Amendment also prohibits the Government from becoming excessively entangled in religious affairs and from interfering with a religious institution's internal decisions concerning the organization's religious structure, ministers, or doctrine. The U.S. Government Mandate tramples all of these rights.

BACKGROUND

6. Plaintiff is a Catholic religious entity that provides a wide range of spiritual, educational, and social services to the greater Dallas community and surrounding counties, serving Catholics and non-Catholics alike. The Diocese not only provides pastoral care and spiritual guidance for over 1 million Catholics, but also educates close to 12,000 students through the Diocesan school system and meets many other needs through the numerous charitable programs undertaken by the parishes within the Diocese. For example, Bishop Dunne Catholic School—a school within the Diocese—is devoted to teaching a religiously and

ethnically diverse student body with a significant number of children from families with limited financial resources.

7. Plaintiff serves many people, regardless of faith or financial condition. Cardinal James Hickey, retired Archbishop of Washington, once commented on the role of Catholic educators: "We do not educate our students because *they* are Catholic; we educate them because *we* are Catholic." Bishop Farrell echoed this sentiment regarding the emphasis Catholic educators must place on serving the needs of those less fortunate: "In the end, one's life is not judged by what one acquires but what one does with it. Catholic education calls on the student to model his or her life after the One who 'came to serve, not be served.'" Most Reverend Kevin J. Farrell, D.D., *Catholic Schools Week* (Jan. 19, 2012), *available at* http://bishopkevinfarrell.org/blog/2012/01/catholic-schools-week-2/ (last visited Apr. 17, 2012).

8. Plaintiff's work is guided by and consistent with Roman Catholic belief, including the requirement that it serve those in need, regardless of their religion or financial condition. This is perhaps best captured by words attributed to St. Francis of Assisi: "Preach the Gospel at all times. Use words if necessary." As Pope Benedict has more recently put it, "Love for widows and orphans, prisoners, and the sick and needy of every kind, is as essential to her [the Catholic Church] as the ministry of the sacraments and preaching of the Gospel. The Church cannot neglect the service of charity any more than she can neglect the Sacraments and the Word." Pope Benedict XVI, *Deus Caritas Est* ¶ 22 (2006). Thus, Catholic individuals and organizations consistently work to create a more just community by serving any and all neighbors in need.

9. Artificial interference with the creation of life, including through abortion-inducing drugs, sterilization, and contraceptives, is contrary to Catholic values and beliefs.

10. Defendants have promulgated various rules (collectively, the "U.S. Government Mandate"), that force Plaintiff to violate its sincerely held religious beliefs. Under the U.S. Government Mandate, many Catholic and other religious organizations are required to provide health plans to employees that include and/or facilitate coverage for abortion-inducing drugs, sterilization, and contraception in violation of their sincerely held religious beliefs. Ignoring broader religious exemptions from other federal laws, the Government has crafted a narrow exemption to this Mandate for certain "religious employers" who can convince the Government that they satisfy four criteria:

- "The inculcation of religious values is the purpose of the organization";
- "The organization primarily employs persons who share the religious tenets of the organization";
- "The organization primarily serves persons who share the religious tenets of the organization"; and
- "The organization is a nonprofit organization as described in section 6033(a)(1) and section 6033(a)(3)(A)(i) or (iii) of the Internal Revenue Code of 1986, as amended."

Thus, in order to safeguard their religious freedoms, religious employers must plead with government bureaucrats for a determination that the employers are sufficiently "religious."

11. The Diocese does not know whether the Government will conclude that it satisfies the definition of a "religious employer" under the impermissibly vague terms of the exemption. This narrow definition of "religious employer" could be read to exclude the Diocese even though it is a "religious" organization under any reasonable definition of the term. And in order for Plaintiff to learn whether or not it qualifies, it must submit to an intrusive and potentially costly governmental investigation into whether, in the Government's view, the Plaintiff's "purpose" is the "inculcation of religious values"; whether it "primarily" employs "persons who share [its] religious tenets," even though it hires many Catholics and non-Catholics; and whether it

"primarily" serves such people, even though its schools, parishes, and social services include individuals of all faiths.

12. Consequently, even to attempt to qualify for the exemption directly, Plaintiff may be required to stop providing educational opportunities to non-Catholics, to stop serving non-Catholics, to fire non-Catholic employees, and to cease hiring non-Catholic persons—actions that would betray its religious commitment to serving all in need without regard to religious belief. Plaintiff's only other options are to violate its own beliefs and teachings or to disobey the U.S. Government Mandate.

13. The U.S. Government Mandate, including the exemption for certain "religious employers," is irreconcilable with the First Amendment, the Religious Freedom Restoration Act, and other laws. The Government has not shown any compelling need to force Plaintiff to provide, pay for, and/or facilitate access to abortion-inducing drugs, sterilization, and contraception, or for requiring Plaintiff to submit to an intrusive governmental examination of its religious missions and related services. The Government also has not shown that the U.S. Government Mandate is narrowly tailored to advancing any interest in increasing access to these drugs and services, since these services are already widely available and nothing prevents the Government from making them even more widely available by providing or paying for them directly through a duly-enacted law. The Government, therefore, cannot justify its decision to force Plaintiff to provide, pay for, and/or facilitate access to these drugs and services in violation of its sincerely held religious beliefs.

14. Accordingly, Plaintiff seeks a declaration that the U.S. Government Mandate cannot lawfully be applied to Plaintiff, an injunction barring its enforcement, and an order vacating the Mandate.

I. PRELIMINARY MATTERS

15. The Roman Catholic Diocese of Dallas is a nonprofit religious organization organized and existing according to the Code of Canon Law of the Roman Catholic Church and recognized by the State of Texas. The Diocese includes a community of Roman Catholic parishes, schools, and organizations in and around Dallas, Texas, under the pastoral care of Most Reverend Bishop Kevin J. Farrell, D.D. The principal office of the Diocese is located in Dallas, Texas. It is organized exclusively for charitable, religious, and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code.

16. Defendant Kathleen Sebelius is the Secretary of the U.S. Department of Health and Human Services. She is sued in her official capacity.

17. Defendant Hilda Solis is the Secretary of the U.S. Department of Labor. She is sued in her official capacity.

18. Defendant Timothy Geithner is the Secretary of the U.S. Department of Treasury. He is sued in his official capacity.

19. Defendant U.S. Department of Health and Human Services ("HHS") is an executive agency of the United States within the meaning of the RFRA and the Administrative Procedure Act ("APA").

20. Defendant U.S. Department of Labor is an executive agency of the United States within the meaning of the RFRA and the APA.

21. Defendant U.S. Department of Treasury is an executive agency of the United States within the meaning of the RFRA and the APA.

22. This is an action for declaratory and injunctive relief under 5 U.S.C. § 702, 28 U.S.C. §§ 2201, 2202, and 42 U.S.C. § 2000bb-1.

23. An actual, justiciable controversy currently exists between Plaintiff and Defendants. Absent a declaration resolving this controversy and the validity of the U.S. Government Mandate, Plaintiff is uncertain as to its rights and duties in planning, negotiating, and/or implementing its group health insurance plan, its hiring and retention programs, and its social, educational, and charitable programs and ministries, as described below.

24. Plaintiff has no adequate or available administrative remedy, or, in the alternative, any effort to obtain an administrative remedy would be futile.

25. This Court has subject-matter jurisdiction over this action under 28 U.S.C. §§ 1331, 1343(a)(4), and 1346(a)(2).

26. Venue is proper in this Court under 28 U.S.C. § 1391(e)(1).

II. FACTUAL BACKGROUND

27. The Diocese of Dallas encompasses 69 parishes and 5 quasi-parishes and serves a region comprised of 9 counties in North Texas, with a population of approximately 3.7 million, including over 1 million Roman Catholics. The counties within the Diocese are Collin, Dallas, Ellis, Fannin, Grayson, Hunt, Kaufman, Navarro, and Rockwall Counties. Originally covering 108,000 square miles of Texas—stretching from Texarkana to El Paso, a distance of 812 miles—the Diocese of Dallas was created by Pope Leo XIII in 1890. In addition to its current 74 parishes and quasi-parishes, the Diocese also contains 38 Catholic elementary and secondary schools. The charitable work of the Diocese is also performed through a number of affiliated corporations.

28. The Diocese has been led since 2007 by Bishop Kevin J. Farrell, D.D., formerly the Auxiliary Bishop of the Archdiocese of Washington, D.C. He is active in the United States through the U.S. Conference of Catholic Bishops ("USCCB") and provides leadership for

various initiatives at the national level, including as a consultant to the USCCB Committee on Migration.

29. Bishop Farrell is assisted in his ministry by two auxiliary bishops and by a staff of clergymen, religious brothers and sisters, and lay people. The Diocese has over 100 employees at its Pastoral center, nearly 90 of whom are benefits-eligible.

30. The Diocese itself carries out a tripartite spiritual, educational, and social service mission, reflecting the several dimensions of its ministry. The spiritual ministry of the Diocese is conducted largely through its parishes. Through the ministry of its priests, the Diocese ensures the regular availability of the sacraments to all Catholics living in or visiting the Dallas area. It also provides numerous other opportunities for prayer, worship, and faith formation. In addition to overseeing the sacramental life of its parishes, the Diocese coordinates Catholic campus ministries at University of Dallas and Southern Methodist University, as well as hospital ministries at 10 hospitals and medical centers within its borders.

31. The Catholic educational mission is evident in the Diocesan schools. The first Catholic school opened in Dallas nearly 140 years ago, before the city had a public school system. The Diocese's schools educate diverse student bodies to form Catholic, person-centered learning communities; provide academic excellence through educational programs infused with Catholic doctrine and social teachings; serve and support society in the parish, civic, and global communities; and graduate students who are critical thinkers and productive moral citizens. The schools of the Diocese follow curriculum standards based upon national education standards, core curriculum standards, and the social teachings of the Catholic Church.

32. There are 38 Catholic elementary and secondary schools, which educate over 15,000 students, located within the Diocese. The Diocese and/or its parishes operate 31 of these

schools—3 secondary schools and 28 elementary schools—serving over 12,000 students, and employing over 900 teachers in addition to other school staff. All of these 28 elementary schools are "parochial schools," owned and operated by one of the parishes within the Diocese. Three of the secondary schools operated by the Diocese are incorporated separately from the Diocese but are considered "Diocesan schools." The remaining three elementary schools and four secondary schools are independent from, but located within, the Diocese and fall under the spiritual jurisdiction of Bishop Farrell.

33. The Diocesan schools welcome students in all financial conditions, from all backgrounds, and of any or no faith. In order to make a Catholic education available to as many children as possible, the Diocese expends substantial funds in tuition assistance programs; it awarded over $700,000 in tuition assistance for the 2011–2012 school year. Fifteen percent of the students in parochial elementary schools are minorities.

34. The Catholic educational system has demonstrated a particular dedication to teaching the underserved. For example, Bishop Dunne Catholic School ("Bishop Dunne"), located in Southwest Dallas, serves a diverse student body which reflects that of the entire Dallas community. Serving children in Dallas proudly for over 110 years, Bishop Dunne has a student population of approximately 600 students, over 75% of whom are minorities and nearly 50% of whom are not Catholic. Schools like Bishop Dunne are no less an expression and outgrowth of genuine Catholic belief because they serve a significant number of non-Catholics. Indeed, quite the opposite: the Diocese sees these schools as a vital part of its mission to offer to every student, in every place, a safe, morally sound, and academically rigorous education. As Bishop Dunne recognizes, "Concern for the poor is at the heart of our educational mission, where we are determined to provide educational opportunities for as many materially poor students as possible

and continue to look for new ways to increase our efforts on their behalf. We work to sensitize the entire school community to the needs of the poor, both locally and globally. In the 21st century, this attitude is crucial. We strive to address the needs of our students who experience learning, personal or social problems." Bishop Dunne Catholic School, What We Believe (Special Concern for the Poor and Marginalized), *available at* http://www.bdhs.org/podium/default.aspx?t=138556 (last visited May 17, 2012).

35. The schools of the Diocese offer a unique educational experience unlike any other in the area. In the words of Bishop Farrell, "Academics is more than the curriculum, it includes the learning environment, the quality of the teaching and how to incorporate one's educational experience into a Christian value-centered life. Information is not knowledge and knowledge that is not applied is betrayed." Most Reverend Kevin J. Farrell, D.D., *Catholic Schools Week* (Jan. 19, 2012), *available at* http://bishopkevinfarrell.org/blog/2012/01/catholic-schools-week-2/ (last visited Apr. 17, 2012). To that end, the Diocesan schools have established three priorities that make them stand out from other educational institutions. Students are taught faith—not just the basics of Christianity, but how to have a relationship with God that will remain with them after they leave their Catholic school. Service, the giving of one's time and effort to help others, is taught as both a requirement of true faith and good citizenship. Finally, high academic standards help each student reach his or her potential. In recent years, many Diocesan schools have received Blue Ribbon recognition from the National Catholic Educational Association. Remarkably, for over a decade, 100% of graduates from Bishop Dunne have achieved acceptance for college admission. Nationally, over 99% of students in Catholic high schools graduate.

36. Much of the social service work of the Diocese is performed through its 74 parishes and quasi-parishes. The parishes within the Diocese maintain their own charitable efforts, serving the needs of their communities with programs including parish chapters of the St. Vincent DePaul Society, counseling for youth and adults, English as a second language classes, meals served to the homeless, and visits to nursing homes. Several parishes in the Diocese spread their good works beyond the Dallas community through mission trips to Mexico and Ecuador, and through several medical and youth missions each year to Trujillo, Honduras. The Diocese oversees all of the social service work undertaken by its parishes. Neither the Diocese nor its parishes keep a tally of persons served through these outreach programs, nor do they ever request to know the religious affiliation of those served.

37. In summary, the Diocese of Dallas, a nonprofit religious organization organized and existing according to the Code of Canon Law of the Roman Catholic Church and recognized by the State of Texas, has over 100 employees at its Pastoral center, nearly 90 of whom are benefits-eligible. As noted above, the Diocese includes 31 Diocesan schools and oversees 7 other affiliated schools. These schools serve over 15,000 students, including Catholics and non-Catholics alike. These schools employ approximately 1,300 teachers. And through its parishes, the Diocese serves an indeterminate number of persons who are homeless, hungry, elderly, or otherwise in need of material, educational, or other assistance, without regard to religious belief. The Diocese does not know how many of those whose needs are met through the social service programs of its parishes are Catholic. In order to determine those statistics, the Diocese would be required to ask the religious affiliation of all individuals that it serves. That inquiry, however, would substantially burden the Diocese's exercise of religion.

38. It is therefore unclear whether the Government will conclude that the Diocese qualifies as a "religious employer" under the narrow exemption from compliance with the U.S. Government Mandate.

39. Moreover, determining whether an organization—such as the Diocese—qualifies for the exemption will require the Government to engage in an intrusive inquiry, based on an understanding of religion inconsistent with the Catholic faith, into whether, in the view of the Government, (1) the Diocese's "purpose" is the "inculcation of religious values," (2) the Diocese "primarily" employs "persons who share [its] religious tenets," even though it hires many Catholics and non-Catholics, and (3) the Diocese "primarily" serves such people, even though its schools and social services are open to individuals of all faiths.

40. Regardless of outcome, the Diocese strongly objects to such an intrusive and misguided governmental investigation into its religious mission.

41. Finally, the Diocese operates a self-insured health plan. That is, the Diocese does not contract with a separate insurance company that provides health care coverage to its employees. Instead, the Diocese itself functions as the insurance company underwriting its employees' medical costs through a plan administered by a Third-Party Administrator, Aetna.

42. The self-insured health plan offered by the Diocese to its employees does not cover abortion-inducing drugs, sterilization, or contraceptives used to prevent pregnancy.

43. The Diocese's self-insured health plan does not meet the definition of a "grandfathered" plan within the meaning of the Patient Protection and Affordable Care Act. The Diocese has not included a statement that the plan is believed to be a grandfathered plan, as required by 26 C.F.R. § 54.9815-1251T(a)(2)(ii).

44. The plan year for the Diocese begins on January 1.

III. STATUTORY AND REGULATORY BACKGROUND

A. Statutory Background

45. In March 2010, Congress enacted the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 (2010), and the Health Care and Education Reconciliation Act, Pub. L. No. 111-152, 124 Stat. 1029 (2010) (collectively, the "Affordable Care Act" or the "Act"). The Affordable Care Act established many new requirements for "group health plan[s]," broadly defined as "employee welfare benefit plan[s]" within the meaning of the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. § 1002(1), that "provide[] medical care . . . to employees or their dependents." 42 U.S.C. § 300gg-91(a)(1).

46. As relevant here, the Act requires an employer's group health plan to cover certain women's "preventive care." Specifically, it indicates that "[a] group health plan and a health insurance issuer offering group or individual health insurance coverage shall, at a minimum[,] provide coverage for and shall not impose any cost sharing requirements for— (4) with respect to women, such additional preventive care and screenings . . . as provided for in comprehensive guidelines supported by the Health Resources and Services Administration for purposes of this paragraph." Pub. L. No. 111-148 § 1001(5), 124 Stat. 131 (codified at 42 U.S.C. § 300gg-13(a)(4)). Because the Act prohibits "cost sharing requirements," the health plan must pay for the full costs of these "preventive care" services without any deductible or co-payment.

47. "[T]he Affordable Care Act preserves the ability of individuals to retain coverage under a group health plan or health insurance coverage in which the individual was enrolled on March 23, 2010." Interim Final Rules for Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services Under the Patient Protection and Affordable Care Act, 75 Fed. Reg. 41,726, 41,731 (July 19, 2010); 42 U.S.C. § 18011. These so-called

"grandfathered health plans do not have to meet the requirements" of the U.S. Government Mandate. 75 Fed. Reg. at 41,731. The Government estimates that "98 million individuals will be enrolled in grandfathered group health plans in 2013." *Id.* at 41,732.

48. Violations of the Affordable Care Act can subject an employer and an insurer to substantial monetary penalties.

49. Under the Internal Revenue Code, employers who fail to provide all coverage required by the U.S. Government Mandate will be exposed to significant annual fines of $2,000 per full-time employee. *See* 26 U.S.C. § 4980H(a), (c)(1).

50. Additionally, under the Internal Revenue Code, group health plans that fail to provide certain required coverage may be subject to an assessment of $100 a day per individual. *See* 26 U.S.C. § 4980D(b); *see also* Jennifer Staman & Jon Shimabukuro, Cong. Research Serv., RL 7-5700, Enforcement of the Preventive Health Care Services Requirements of the Patient Protection and Affordable Care Act (2012) (asserting that this applies to employers who violate the "preventive care" provision of the Affordable Care Act).

51. Under the Public Health Service Act, the Secretary of HHS may impose a monetary penalty of $100 a day per individual where an insurer fails to provide the coverage required by the U.S. Government Mandate. *See* 42 U.S.C. § 300gg-22(b)(2)(C)(i); *see also* Cong. Research Serv., RL 7-5700 (asserting that this penalty applies to insurers who violate the "preventive care" provision of the Affordable Care Act).

52. ERISA may provide for additional penalties. Under ERISA, plan participants can bring civil actions against insurers for unpaid benefits. 29 U.S.C. § 1132(a)(1)(B); *see also* Cong. Research Serv., RL 7-5700. Similarly, the Secretary of Labor may bring an enforcement action against group health plans of employers that violate the U.S. Government Mandate, as

incorporated by ERISA. *See* 29 U.S.C. § 1132(b)(3); *see also* Cong. Research Serv., RL 7-5700 (asserting that these fines can apply to employers and insurers who violate the "preventive care" provision of the Affordable Care Act).

53. Several of the Act's provisions, along with other federal statutes, reflect a clear congressional intent that the executive agency charged with identifying the "preventive care" required by § 300gg-13(a)(4) should exclude all abortion-related services. The Act itself states that "nothing in this title (or any amendment made by this title) shall be construed to require a qualified health plan to provide coverage of [abortion] services . . . as part of its essential health benefits for any plan year." 42 U.S.C. § 18023(b)(1)(A)(i). And the Act leaves it to "the issuer of a qualified health plan," not the Government, "[to] determine whether or not the plan provides coverage of [abortion]." *Id.* § 18023(b)(1)(A)(ii). Likewise, the Weldon Amendment, which has been included in every HHS and Department of Labor appropriations bill since 2004, states that "[n]one of the funds made available in this Act [to the Department of Labor and the Department of Health and Human Services] may be made available to a Federal agency or program . . . if such agency, program, or government subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions." Consolidated Appropriations Act of 2012, Pub. L. No. 112-74, div. F, tit. V, § 507(d)(1), 125 Stat. 786, 1111 (2011).

54. The legislative history of the Act also demonstrates a clear congressional intent to prohibit the executive branch from requiring group health plans to provide abortion-related services. For example, the House of Representatives originally passed a bill that included an amendment by Congressman Bart Stupak prohibiting the use of federal funds for abortion services. *See* H.R. 3962, 111th Cong. § 265 (Nov. 7, 2009). The Senate version, however,

lacked that restriction. S. Amend. No. 2786 to H.R. 3590, 111th Cong. (Dec. 23, 2009). To avoid a filibuster in the Senate, congressional proponents of the Act engaged in a procedure known as "budget reconciliation" that required the House to adopt the Senate version of the bill largely in its entirety. Congressman Stupak and other pro-life House members, however, indicated that they would refuse to vote for the Senate version because it failed adequately to prohibit federal funding of abortion. In an attempt to address these concerns, President Obama issued an executive order providing that no executive agency would authorize the federal funding of abortion services. *See* Executive Order 13535, 75 Fed. Reg. 15,599 (Mar. 24, 2010). The Act was, therefore, passed on the central premise that all agencies would uphold and follow "longstanding Federal laws to protect conscience" and to prohibit federal funding of abortion. *Id.* That executive order was consistent with a 2009 speech that President Obama gave at the University of Notre Dame, in which he indicated that his Administration would honor the consciences of those who disagree with abortion, and draft sensible conscience clauses.

B. Regulatory Background – Defining "Preventive Care" and the Narrow Exemption

55. In less than two years, Defendants promulgated the U.S. Government Mandate, subverting the Act's clear purpose to protect the rights of conscience. The U.S. Government Mandate, moreover, was implemented contrary to the normal procedural rules governing the promulgation and implementation of rules of this magnitude.

56. In particular, on July 19, 2010, Defendants issued initial interim final rules concerning § 300gg-13(a)(4)'s requirement that group health plans provide coverage for women's "preventive care." Interim Final Rules, 75 Fed. Reg. 41,726. Defendants dispensed with notice-and-comment rulemaking for these rules. Even though federal law had never required coverage of abortion-inducing drugs, sterilization, or contraceptives, Defendants claimed both that the APA did not apply to the relevant provisions of the Affordable Care Act

and that "it would be impracticable and contrary to the public interest to delay putting the provisions in these interim final regulations in place until a full public notice and comment process was completed." *Id.* at 41,730.

57. The interim final rules referred to the Affordable Care Act's statutory language. They indicated that "a group health plan . . . must provide coverage for all of the following items and services, and may not impose any cost-sharing requirements (such as a copayment, coinsurance, or deductible) with respect to those items or services: . . . (iv) With respect to women, to the extent not described in paragraph (a)(1)(i) of this section, evidence-informed preventive care and screenings provided for in comprehensive guidelines supported by the Health Resources and Services Administration." Interim Final Rules, 75 Fed. Reg. at 41,759 (codified at 45 C.F.R. § 147.130(a)(iv)).

58. The interim final rules, however, failed to identify the women's "preventive care" that Defendants planned to require employer group health plans to cover. 42 U.S.C. § 300gg-13(a)(4). Instead, Defendants noted that "[t]he Department of HHS [was] developing these guidelines and expects to issue them no later than August 1, 2011." Interim Final Rules, 75 Fed. Reg. at 41,731.

59. Defendants permitted concerned entities to provide written comments about the interim final rules. *See id.* at 41,726. But, as Defendants have conceded, they did not comply with the notice-and-comment requirements of the APA. *Id.* at 41,730.

60. In response, several groups engaged in a lobbying effort to persuade Defendants to include various abortion-inducing drugs and contraceptives in the "preventive care" requirements for group health plans. *See, e.g.*, Press Release, Planned Parenthood, *Planned Parenthood Supports Initial White House Regulations on Preventive Care* (July 14, 2010),

available at http://www.plannedparenthood.org/about-us/newsroom/press-releases/planned-parenthood-supports-initial-white-house-regulations-preventive-care-highlights-need-new-33140.htm. Other commenters noted that "preventive care" could not reasonably be interpreted to include such practices. These groups indicated that pregnancy was not a disease that needed to be "prevented," and that a contrary view would intrude on the sincerely held beliefs of many religiously affiliated organizations. *See, e.g.*, Comments of U.S. Conference of Catholic Bishops, at 1-2 (Sept. 17, 2010), *available at* http://old.usccb.org/ogc/preventive.pdf.

61. On August 1, 2011, HHS announced the "preventive care" services that group health plans would be required to cover. *See* Press Release, HHS, *Affordable Care Act Ensures Women Receive Preventive Services at No Additional Cost* (Aug. 1, 2011), *available at* http://www.hhs.gov/news/press/2011pres/08/20110801b.html. Again acting without notice-and-comment rulemaking, HHS announced these guidelines through a press release rather than enactments in the Code of Federal Regulations or statements in the Federal Register.

62. The press release made clear that the guidelines were developed by a non-governmental "independent" organization, the Institute of Medicine. *See id.* In developing the guidelines, the Institute of Medicine invited certain groups to make presentations on preventive care. On information and belief, no groups that oppose government-mandated coverage of contraception, abortion, and related education and counseling were among the invited presenters. Comm. on Preventive Servs. for Women, Inst. of Med., Clinical Preventive Services for Women app. B at 217-21 (2011), http://www.nap.edu/openbook.php?record_id=13181&page=R1.

63. The Institute of Medicine's own report, in turn, included a dissent that suggested that the Institute of Medicine's recommendations were made on an unduly short time frame

dictated by political considerations and without the appropriate transparency for all concerned persons.

64. In direct contradiction of the central compromise necessary for the Affordable Care Act's passage and President Obama's promise to protect religious liberty, HHS's guidelines required insurers and group health plans to cover "[a]ll Food and Drug Administration approved contraceptive methods, sterilization procedures, and patient education and counseling for all women with reproductive capacity." *See* Health Res. Servs. Admin., *Women's Preventive Services, Required Health Plan Coverage Guidelines*, http://www.hrsa.gov/womensguidelines/ (last visited April 25, 2012). FDA-approved contraceptives that qualify under these guidelines include drugs that induce abortions. For example, the FDA has approved "emergency contraceptives" such as the morning-after pill (otherwise known as Plan B), which can prevent a fertilized embryo from implanting in the womb, and Ulipristal (otherwise known as HRP 2000 or ella), which likewise can induce abortions of living embryos.

65. A few days later, on August 3, 2011, Defendants issued amendments to the interim final rules that they had enacted in July 2010. *See* Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services Under the Patient Protection and Affordable Care Act, 76 Fed. Reg. 46,621 (Aug. 3, 2011). Defendants issued the amendments again without notice-and-comment rulemaking on the same grounds that they had provided for bypassing the APA with the original rules. *See id.* at 46,624.

66. When announcing the amended regulations, Defendants ignored the view that "preventive care" should exclude abortion-inducing drugs, sterilization, or contraceptives that do not prevent disease. Instead, they noted only that "commenters [had] asserted that requiring group health plans sponsored by religious employers to cover contraceptive services that their

faith deems contrary to its religious tenets would impinge upon their religious freedom." *Id.* at 46,623.

67. Defendants then sought "to provide for a religious accommodation that respect[ed]" only "the unique relationship between a house of worship and its employees in ministerial positions." *Id.*

68. Specifically, the regulatory exemption ignored definitions of religious employers already existing in federal law and, instead, covered only those employers whose purpose is to inculcate religious values, and who employ and serve primarily individuals of the same religion. It provides in full:

> (A) In developing the binding health plan coverage guidelines specified in this paragraph (a)(1)(iv), the Health Resources and Services Administration shall be informed by evidence and may establish exemptions from such guidelines with respect to group health plans established or maintained by religious employers and health insurance coverage provided in connection with group health plans established or maintained by religious employers with respect to any requirement to cover contraceptive services under such guidelines.
>
> (B) For purposes of this subsection, a "religious employer" is an organization that meets all of the following criteria:
>
> (1) The inculcation of religious values is the purpose of the organization.
>
> (2) The organization primarily employs persons who share the religious tenets of the organization.
>
> (3) The organization serves primarily persons who share the religious tenets of the organization.
>
> (4) The organization is a nonprofit organization as described in section 6033(a)(1) and section 6033(a)(3)(A)(i) or (iii) of the Internal Revenue Code of 1986, as amended.

Id. at 46,626 (codified at 45 C.F.R. § 147.130(a)(iv)(A)-(B)).

69. The exemption excludes the health plans of all other religiously affiliated employers that view their missions as providing charitable, educational, and employment opportunities to all those who request it, regardless of their religious faith.

70. Moreover, determining whether an organization is sufficiently "religious" to qualify for the exemption requires an unconstitutionally invasive inquiry into an organization's religious beliefs and practices. For example, the Government must determine the "religious tenets" of an organization and the individuals it employs and serves; it must determine whether the organization "primarily" employs and "primarily" serves individuals who "share" the organization's "religious tenets"; and it must determine whether "the purpose" of the organization is the "inculcation of religious values."

71. When issuing this interim final rule, Defendants did not explain why they constructed such a narrow religious exemption. Nor did Defendants explain why they refused to incorporate other "longstanding Federal laws to protect conscience" that President Obama's executive order previously had promised to respect. *See* Executive Order 13535, 75 Fed. Reg. 15,599 (Mar. 24, 2010). ERISA, for example, has long excluded "church plans" from its requirements, more broadly defined to cover organizations that share religious bonds with a church. *See* 29 U.S.C. §§ 1002(33)(C)(iv), 1003. Likewise, the Affordable Care Act's requirement that all individuals maintain minimum essential coverage excludes those individuals who have a religious objection to receiving benefits from public or private insurance. 26 U.S.C. §§ 1402(g)(1), 5000A(d)(2). Nor did Defendants consider whether they had a compelling interest to require religiously affiliated employers to include services in their health plans that were contrary to their religious beliefs, or whether Defendants could achieve their views of sound policy in a more religiously accommodating manner.

72. Suggesting that they were open to good-faith discussion, Defendants once again permitted parties to provide comments to the amended rules. Numerous organizations expressed the same concerns that they had before, noting that the mandated services should not be viewed as "preventive care." They also explained that the religious exemption was "narrower than any conscience clause ever enacted in federal law, and narrower than the vast majority of religious exemptions from state contraceptive mandates." Comments of U.S. Conference of Catholic Bishops, at 1-2 (Aug. 31, 2011), *available at* http://www.usccb.org/about/general-counsel/rulemaking/upload/comments-to-hhs-on-preventive-services-2011-08.pdf.

73. Three months later, "[a]fter evaluating [the new] comments" to the interim final rules, Defendants gave their response. They did not request further discussion or make attempts at compromise. Nor did they explain the basis for their decision. Instead, Defendant Sebelius issued a short, Friday-afternoon press release, announcing, with little analysis or reasoning, that HHS had decided to keep the exemption unchanged, but creating a temporary enforcement safe harbor whereby "[n]onprofit employers who, based on religious beliefs, do not currently provide contraceptive coverage in their insurance plan, will be provided an additional year, until August 1, 2013, to comply with the new law." *See* Press Release, HHS, A Statement by U.S. Department of Health and Human Services Secretary Kathleen Sebelius (Jan. 20, 2012), *available at* http://www.hhs.gov/news/press/2012pres/01/20120120a.html. As noted by Bishop Farrell, the release effectively gave objecting religious institutions "one year to violate their consciences." Most Reverend Kevin J. Farrell, D.D., *The War Against Religious Freedom Escalates* (Jan. 23, 2012), *available at* http://bishopkevinfarrell.org/blog/2012/01/the-war-against-religious-freedom-escalates/ (last visited Apr. 17, 2012). Taken together, these various rules and press releases amount to a mandate that requires many religiously affiliated

organizations to provide coverage for services to their employees that are directly contrary to their religious beliefs.

74. On February 10, 2012, after a continuing public outcry against the U.S. Government Mandate and its exceedingly narrow conscience protections, the White House held a press conference and issued another press release about the U.S. Government Mandate. The White House announced that it had come up with a policy to "accommodate" religious objections to the U.S. Government Mandate, according to which the insurance companies of religious organizations that object to providing coverage for abortion-inducing drugs, sterilization, or contraceptives "will be required to directly offer . . . contraceptive care [to plan participants] free of charge." White House, *Fact Sheet: Women's Preventive Services and Religious Institutions* (Feb. 10, 2012), *available at* http://www.whitehouse.gov/the-press-office/2012/02/10/fact-sheet-women-s-preventive-services-and-religious-institutions.

75. Despite objections that this "accommodation" did nothing of substance to protect the right of conscience, when asked if there would be further room for compromise, White House Chief of Staff Jacob Lew responded: "No, this is our plan." David Eldridge & Cheryl Wetzstein, *White House Says Contraception Compromise Will Stand*, The Washington Times, Feb. 12, 2012, http://www.washingtontimes.com/news/2012/feb/12/white-house-birth-control-compromise-will-stand/print/.

76. Defendants subsequently explained in the Federal Register that they "plan[ned] to initiate a rulemaking to require issuers to offer insurance without contraception coverage to [an objecting religious] employer (or plan sponsor) and simultaneously to offer contraceptive coverage directly to the employer's plan participants (and their beneficiaries) who desire it, with no cost-sharing." Group Health Plans and Health Insurance Issuers Relating to Coverage of

Preventive Services Under the Patient Protection and Affordable Care Act, 77 Fed. Reg. 8725, 8728 (Feb. 15, 2012). The Federal Register further asserted that the rulemaking would "achieve the same goals for self-insured group health plans." *Id.*

77. Defendants then "finalize[d], without change," the interim final rules containing the religious employer exemption, 77 Fed. Reg. at 8729, and issued guidelines regarding the previously announced "temporary enforcement safe harbor" for "non-exempted, non-profit religious organizations with religious objections to such coverage." *Id.* at 8725; *see* Ctr. for Consumer Info. & Ins. Oversight, Guidance on the Temporary Enforcement Safe Harbor (Feb. 10, 2012), *available at* http://cciio.cms.gov/resources/files/Files2/02102012/20120210-Preventive-Services-Bulletin.pdf.

78. On March 16, 2012, Defendants issued an Advance Notice of Proposed Rulemaking ("ANPRM") seeking comment on various ways to structure the proposed accommodation. Certain Preventive Services Under the Affordable Care Act, 77 Fed. Reg. 16,501 (Mar. 21, 2012). The proposed scenarios require an "independent entity" to provide coverage for the objectionable services at no cost to the participants. But private entities do not provide insurance coverage "for free." Moreover, even if these proposals were adopted, they would still require religious organizations to provide, pay for, and/or facilitate access to the objectionable services. Finally, it is also unclear whether the Government has statutory authority to implement each of the possibilities referenced in the ANPRM.

79. The ANPRM does not alter existing law. It merely states an intention to do so at some point in the future. But a promise to change the law, whether issued by the White House or in the form of an ANPRM does not, in fact, change the law. The U.S. Government Mandate

is therefore the current, operative law. Plaintiff has until the start of the next plan year following August 1, 2013, to come into compliance with this law.

IV. THE U.S. GOVERNMENT MANDATE IMPOSES AN IMMEDIATE AND SUBSTANTIAL BURDEN ON PLAINTIFF'S RELIGIOUS LIBERTY

A. The U.S. Government Mandate Substantially Burdens Plaintiff's Religious Beliefs

80. Responding to the U.S. Government Mandate, Bishop Farrell stated that it is "an attempt by the government to impose upon Catholic institutions a requirement to be a party to an act their long-standing teaching and tradition considers contrary to the moral law." Most Reverend Kevin J. Farrell, D.D., *Moral Principles Cannot Be Compromised* (Feb. 14, 2012), *available at* http://bishopkevinfarrell.org/blog/2012/02/moral-principles-cannot-be-compromised/ (last visited Apr. 17, 2012). Noting, "it is possible to compromise situations but never moral principles," Bishop Farrell calls the Church's response to the U.S. Government Mandate an "effort to protect religious liberty and freedom of conscience for all." *Id.* Indeed, since the founding of this country, one of the basic freedoms central to our society and legal system is that individuals and institutions are entitled to freedom of conscience and religious practice. As noted by Thomas Jefferson, "[n]o provision in our Constitution ought to be dearer to man than that which protects the rights of conscience against the enterprises of civil authority." Thomas Jefferson, *Letter to the Society of the Methodist Episcopal Church at New London, Conn.* (Feb. 4, 1809).

81. The U.S. Government Mandate seeks to require Plaintiff to provide, pay for, and/or facilitate access to services that are contrary to its religious beliefs. It thus substantially burdens Plaintiff's firmly held religious beliefs.

82. The U.S. Government Mandate also seeks to compel Plaintiff to fund "patient education and counseling for all women with reproductive capacity." It therefore compels

Plaintiff to pay for, provide, and/or facilitate speech that is contrary to its firmly held religious beliefs.

83. Although the U.S. Government Mandate contains a narrow religious exemption, in order to qualify, religious organizations must submit to an invasive governmental inquiry regarding their purpose and religious beliefs. Requiring Plaintiff to submit to this government-conducted religious test likewise substantially burdens its firmly held religious beliefs.

84. It is unclear how the Government defines or will interpret "the purpose" of an organization.

85. It is unclear how the Government defines or will interpret vague terms, such as "primarily," "share," and "religious tenets."

86. It is unclear how the Government will ascertain the "religious tenets" of an organization, those it employs, and those it serves.

87. It is unclear how much overlap the Government will require for religious tenets to be "share[d]."

88. Any attempt by Plaintiff to qualify for the narrow religious employer exemption by restricting its charitable and educational mission to coreligionists would have devastating effects on the communities Plaintiff serves.

89. Indeed, the Government does not even allow Plaintiff to avoid the U.S. Government Mandate by exiting the health care market. Eliminating its employee group health plan or refusing to provide plans that cover abortion-inducing drugs, sterilization, or contraceptives would expose Plaintiff to substantial fines. It is no "choice" to leave those employees scrambling for health insurance while subjecting Plaintiff to significant fines for

breaking the law. Yet that is what the U.S. Government Mandate requires for Plaintiff to adhere to its religious beliefs.

90. Nor would the opaque, promised “accommodation”—even if it were law, which it is not—relieve Plaintiff from the unconscionable position in which the U.S. Government Mandate currently puts it, for numerous reasons.

91. First, the promised “accommodation” would not alter the fact that Plaintiff would be required to facilitate practices that run directly contrary to its beliefs. Catholic teaching does not simply require Catholic institutions to avoid directly paying for practices that are viewed as intrinsically immoral. It also requires them to avoid actions that facilitate those practices.

92. Second, any requirement that insurance companies or other independent entities provide preventive services “free of charge” is illusory. For-profit entities do not provide services for free. Instead, increased costs are passed through to consumers in the form of higher premiums or fees. Under the proposed accommodation, doctors will still have to be paid to prescribe the objectionable services, and drug companies and pharmacists will still have to be paid for providing them. Hypothetical future savings cannot be used to pay those fees; rather, the money will necessarily be derived from increased premiums or fees.

93. Third, the “accommodation” does not affect the narrow exemption applicable to “religious employers.” To qualify for that narrow exemption, religious organizations must submit to an invasive governmental inquiry. Requiring Plaintiff to submit to this government-conducted test to determine if Plaintiff is sufficiently religious is inappropriate and substantially burdens its firmly held religious beliefs.

94. Finally, as noted herein, the U.S. Government Mandate is burdening Plaintiff's religious beliefs right now. Plaintiff cannot possibly wait until August 1, 2013, to determine how to respond to the U.S. Government Mandate.

95. In short, while the President claimed to have "f[ou]nd a solution that works for everyone" and that ensures that "[r]eligious liberty will be protected," in reality, his promised "accommodation" does neither.

96. Accordingly, unless and until this issue is definitively resolved, the U.S. Government Mandate does and will continue to impose a substantial burden on Plaintiff's religious beliefs.

B. The U.S. Government Mandate Is Not a Neutral Law of General Applicability

97. The U.S. Government Mandate is not a neutral law of general applicability. It offers multiple exemptions from its requirement that employer-based health plans include or facilitate coverage for abortion-inducing drugs, sterilization, contraception, and related education and counseling. It was, moreover, implemented by and at the behest of individuals and organizations who disagree with certain religious beliefs regarding abortion and contraception, and thus targets religious organizations for disfavored treatment.

98. For example, the U.S. Government Mandate exempts all "grandfathered" plans from its requirements.

99. The Government has also crafted a religious exemption to the U.S. Government Mandate that favors certain religions over others. As noted, it applies only to plans sponsored by religious organizations that have, as their "purpose," the "inculcation of religious values"; that "primarily" serve individuals that share their "religious tenets"; and that "primarily" employ such individuals. 45 C.F.R. § 147.130(a)(iv)(B).

100. This narrow exemption may protect some religious organizations. But it does not protect the many Catholic and other religious organizations that educate students of varying religious beliefs, provide vital social services to the individuals of varying religious beliefs, and employ individuals of varying religious beliefs. The U.S. Government Mandate thus discriminates against such religious organizations because of their religious commitment to educate, serve, and employ people of varying faiths.

101. The U.S. Government Mandate, moreover, was promulgated by Government officials, and supported by non-governmental organizations, who strongly oppose certain Catholic teachings and beliefs. For example, on October 5, 2011, Defendant Sebelius spoke at a fundraiser for NARAL Pro-Choice America. Defendant Sebelius has long been a staunch supporter of abortion rights and a vocal critic of Catholic teachings and beliefs regarding abortion and contraception. NARAL Pro-Choice America is a pro-abortion organization that likewise opposes many Catholic teachings. At that fundraiser, Defendant Sebelius declared that "we are in a war," presumably with those entities, like Plaintiff, whose beliefs differ from those held by her and the other attendees of the NARAL Pro-Choice America fundraiser.

102. Consequently, on information and belief, Plaintiff alleges that the purpose of the U.S. Government Mandate, including the narrow exemption, is to discriminate against religious institutions and organizations that oppose abortion and contraception.

C. The U.S. Government Mandate Is Not the Least Restrictive Means of Furthering a Compelling Governmental Interest

103. The U.S. Government Mandate is not narrowly tailored to promoting a compelling governmental interest.

104. The U.S. Government has no compelling interest in forcing Plaintiff to violate its sincerely held religious beliefs by requiring it to provide, pay for, or facilitate access to abortion-

inducing drugs, sterilizations, contraceptives, and related education and counseling. The Government itself has relieved numerous other employers from this requirement by exempting grandfathered plans and plans of employers it deems to be sufficiently religious. Moreover, these services are widely available in the United States. The U.S. Supreme Court has held that individuals have a constitutional right to use such services. And nothing that Plaintiff does inhibits any individual from exercising that right.

105. Even assuming the interest was compelling, the Government has numerous alternatives to furthering that interest other than forcing Plaintiff to violate its religious beliefs. For example, the Government could provide or pay for the objectionable services through expansion of its existing network of family planning clinics funded by HHS under Title X or through other programs established by a duly enacted law. Or, at a minimum, it could create a broader exemption for religious employers, such as those found in numerous state laws throughout the country and in other federal laws. The Government therefore cannot possibly demonstrate that requiring Plaintiff to violate its conscience is the least restrictive means of furthering its interest.

106. The U.S. Government Mandate, moreover, would simultaneously undermine both religious freedom—a fundamental right enshrined in the U.S. Constitution—and access to the wide variety of social and educational services that Plaintiff provides. As President Obama acknowledged in his February 10th announcement, religious organizations like Plaintiff do "more good for a community than a government program ever could." The U.S. Government Mandate, however, puts these good works in jeopardy.

107. That is unconscionable. Accordingly, Plaintiff seeks a declaration that the U.S. Government Mandate cannot lawfully be applied to Plaintiff, an injunction barring its enforcement, and an order vacating the Mandate.

D. The U.S. Government Mandate's Religious Employer Exemption Excessively Entangles the Government In Religion And Interferes With Religious Institutions' Religious Doctrine

108. The U.S. Government Mandate's religious employer exemption further excessively entangles the Government in defining the purpose and religious tenets of each organization and its employees and beneficiaries.

109. In order to determine whether Plaintiff—or any other religious organization—qualifies for the exemption, the Government would have to identify the organization's "religious tenets" and determine whether "the purpose" of the organization is to "inculcate" people into those tenets.

110. The Government would then have to conduct an inquiry into the practices and beliefs of the individuals that the organization ultimately employs, educates, and serves.

111. The Government would then have to compare and contrast those religious practices and beliefs to determine whether and how many of them are "share[d]."

112. Regardless of outcome, this inquiry is unconstitutional, and Plaintiff strongly objects to such an intrusive governmental investigation into an organization's religious mission.

113. The religious employer exemption is based on an improper Government determination that "inculcation" is the only legitimate religious purpose.

114. The Government should not base an exemption on an assessment of the "purity" or legitimacy of an institution's religious purpose.

115. By limiting that legitimate purpose to inculcation, at the expense of other sincerely held religious purposes, the U.S. Government Mandate interferes with religious

autonomy. Religious institutions have the right to determine their own religious purpose, including religious purposes broader than inculcation, without Government interference and without losing their religious liberties.

116. Defining religion based on employing and serving primarily people who share the organization's religious tenets directly contradicts Plaintiff's sincerely held religious beliefs regarding its religious mission to serve all people, regardless of whether or not they share the same faith.

E. The U.S. Government Mandate Is Causing Present Hardship to Plaintiff That Should Be Remedied by a Court

117. The U.S. Government Mandate is already causing serious, ongoing hardship to Plaintiff that merits judicial relief now.

118. Health plans do not take shape overnight. Many analyses, negotiations, and decisions must occur each year before Plaintiff can offer a health benefits package to its employees. For example, an employer using an outside insurance issuer must work with actuaries to evaluate its funding reserves, and then negotiate with the insurer to determine the cost of the products and services it wants to offer its employees. An employer that is self-insured—like Plaintiff—after consulting with its actuaries, must similarly negotiate with its third-party administrator.

119. Under normal circumstances, Plaintiff must begin the process of determining its health care package for a plan year at least one year before the plan year begins. The multiple levels of uncertainty surrounding the U.S. Government Mandate make this already lengthy process even more complex.

120. For example, if Plaintiff decides that the only tolerable option is to attempt to qualify as a "religious employer" under the U.S. Government Mandate, it will need to undertake

a major overhaul of its organizational structure, hiring practices, and the scope of its programming. This process could take years.

121. In addition, if Plaintiff does not comply with the U.S. Government Mandate, it may be subject to annual government fines and penalties. Plaintiff requires time to budget for any such additional expenses.

122. The U.S. Government Mandate and its uncertain legality, moreover, undermine Plaintiff's ability to hire and retain employees.

123. Plaintiff therefore needs judicial relief now in order to prevent the serious, ongoing harm that the U.S. Government Mandate is already imposing on it.

CAUSES OF ACTION

COUNT I
Substantial Burden on Religious Exercise in Violation of RFRA

124. Plaintiff repeats and re-alleges each of the foregoing allegations in this Complaint.

125. RFRA prohibits the Government from substantially burdening an entity's exercise of religion, even if the burden results from a rule of general applicability, unless the Government demonstrates that the burden furthers a compelling governmental interest and is the least restrictive means of furthering that interest.

126. RFRA protects organizations as well as individuals from Government-imposed substantial burdens on religious exercise.

127. RFRA applies to all federal law and the implementation of that law by any branch, department, agency, instrumentality, or official of the United States.

128. The U.S. Government Mandate requires Plaintiff to provide, pay for, and/or facilitate practices and speech that are contrary to its religious beliefs.

129. In order to qualify for the “religious employer” exemption to the U.S. Government Mandate, Plaintiff must submit to an intrusive government inquiry into its religious beliefs.

130. The U.S. Government Mandate substantially burdens Plaintiff’s exercise of religion.

131. The Government has no compelling governmental interest to require Plaintiff to comply with the U.S. Government Mandate.

132. Requiring Plaintiff to comply with the U.S. Government Mandate is not the least restrictive means of furthering a compelling governmental interest.

133. By enacting and threatening to enforce the U.S. Government Mandate against Plaintiff, Defendants have violated RFRA.

134. Plaintiff has no adequate remedy at law.

135. The U.S. Government Mandate and its impending enforcement impose an immediate and ongoing harm on Plaintiff that warrants declaratory relief.

COUNT II
Substantial Burden on Religious Exercise in Violation of the Free Exercise Clause of the First Amendment

136. Plaintiff repeats and re-alleges each of the foregoing allegations in this Complaint.

137. The Free Exercise Clause of the First Amendment prohibits the Government from substantially burdening an entity’s exercise of religion.

138. The Free Exercise Clause protects organizations as well as individuals from Government-imposed burdens on religious exercise.

139. The U.S. Government Mandate requires Plaintiff to provide, pay for, and/or facilitate practices and speech that are contrary to its religious beliefs.

140. In order to qualify for the "religious employer" exemption to the U.S. Government Mandate, Plaintiff must submit to an intrusive government inquiry into its religious beliefs.

141. The U.S. Government Mandate substantially burdens Plaintiff's exercise of religion.

142. The U.S. Government Mandate is not a neutral law of general applicability, because it is riddled with exemptions. It offers multiple exemptions from its requirement that employer-based health plans include or facilitate coverage for abortion-inducing drugs, sterilization, contraception and related education and counseling.

143. The U.S. Government Mandate is not a neutral law of general applicability, because it discriminates against certain religious viewpoints and targets certain religious organizations for disfavored treatment. Defendants enacted the U.S. Government Mandate despite being aware of the substantial burden it would place on Plaintiff's exercise of religion.

144. The U.S. Government Mandate implicates constitutional rights in addition to the right to free exercise of religion, including, for example, the rights to free speech and to freedom from excessive government entanglement with religion.

145. The Government has no compelling governmental interest to require Plaintiff to comply with the U.S. Government Mandate.

146. The U.S. Government Mandate is not narrowly tailored to further a compelling governmental interest.

147. By enacting and threatening to enforce the U.S. Government Mandate, the Government has burdened Plaintiff's religious exercise in violation of the Free Exercise Clause of the First Amendment.

148. Plaintiff has no adequate remedy at law.

149. The U.S. Government Mandate and its impending enforcement impose an immediate and ongoing harm on Plaintiff that warrants declaratory relief.

COUNT III
Excessive Entanglement in Violation of the Free Exercise and Establishment Clauses of the First Amendment

150. Plaintiff repeats and re-alleges each of the foregoing allegations in this Complaint.

151. The Free Exercise Clause and the Establishment Clause of the First Amendment prohibit intrusive government inquiries into the religious beliefs of individuals and institutions, and other forms of excessive entanglement between religion and Government.

152. This prohibition on excessive entanglement protects organizations as well as individuals.

153. In order to qualify for the exemption to the U.S. Government Mandate for "religious employers," entities must submit to an invasive government investigation into an organization's religious beliefs, including whether the organization's "purpose" is the "inculcation of religious values" and whether the organization "primarily employs" and "primarily serves" individuals who share the organization's religious tenets.

154. The U.S. Government Mandate thus requires the Government to engage in intrusive inquiries and judgments regarding questions of religious belief or practice.

155. The U.S. Government Mandate results in an excessive entanglement between religion and Government.

156. The U.S. Government Mandate is therefore unconstitutional and invalid.

157. The enactment and impending enforcement of the U.S. Government Mandate violate the Free Exercise Clause and the Establishment Clause of the First Amendment.

158. Plaintiff has no adequate remedy at law.

159. The U.S. Government Mandate and its impending enforcement impose an immediate and ongoing harm on Plaintiff that warrants declaratory relief.

COUNT IV
Religious Discrimination in Violation of the
Free Exercise and Establishment Clauses of the First Amendment

160. Plaintiff repeats and re-alleges each of the foregoing allegations in this Complaint.

161. The Free Exercise Clause and the Establishment Clause of the First Amendment mandate the equal treatment of all religious faiths and institutions without discrimination or preference.

162. This mandate of equal treatment protects organizations as well as individuals.

163. The U.S. Government Mandate's narrow exemption for certain "religious employers" but not others discriminates on the basis of religious views or religious status.

164. The U.S. Government Mandate's definition of religious employer likewise discriminates among different types of religious entities based on the nature of those entities' religious beliefs or practices.

165. The U.S. Government Mandate's definition of religious employer furthers no compelling governmental interest.

166. The U.S. Government Mandate's definition of religious employer is not narrowly tailored to further a compelling governmental interest.

167. The enactment and impending enforcement of the U.S. Government Mandate violate the Free Exercise Clause and the Establishment Clause of the First Amendment.

168. Plaintiff has no adequate remedy at law.

169. The U.S. Government Mandate and its impending enforcement impose an immediate and ongoing harm on Plaintiff that warrants declaratory relief.

COUNT V
Interference in Matters of Internal Church Governance in Violation of the Free Exercise and Establishment Clauses of the First Amendment

170. Plaintiff repeats and re-alleges each of the foregoing allegations in this Complaint.

171. The Free Exercise Clause and Establishment Clause protect the freedom of religious organizations to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine.

172. Under these Clauses, the Government may not interfere with a religious organization's internal decisions concerning the organization's religious structure, ministers, or doctrine.

173. Under these Clauses, the Government may not interfere with a religious organization's internal decision if that interference would affect the faith and mission of the organization itself.

174. Plaintiff is a religious organization affiliated with the Roman Catholic Church.

175. The Catholic Church views abortion, sterilization, and contraception as intrinsically immoral, and prohibits Catholic organizations from condoning or facilitating those practices.

176. Plaintiff has abided and must continue to abide by the decision of the Catholic Church on these issues.

177. The Government may not interfere with, or otherwise question, the decision of the Catholic Church that its religious organizations may not support, promote, or materially cooperate in abortion, sterilization, and contraception services.

178. The Government may not interfere with or otherwise question the final decision of the Catholic Church that its religious organizations must abide by these views.

179. Plaintiff has therefore made the internal decision that the health plan it offers to its employees may not cover, subsidize, or facilitate abortion, sterilization, or contraception.

180. The U.S. Government Mandate interferes with Plaintiff's internal decisions concerning its structure and mission by requiring it to facilitate practices that directly conflict with Catholic beliefs.

181. The U.S. Government Mandate's interference with Plaintiff's internal decisions affects its faith and mission by requiring it to facilitate practices that directly conflict with its religious beliefs.

182. Because the U.S. Government Mandate interferes with the internal decision-making of Plaintiff in a manner that affects Plaintiff's faith and mission, it violates the Establishment Clause and the Free Exercise Clause of the First Amendment.

183. Plaintiff has no adequate remedy at law.

184. The U.S. Government Mandate and its impending enforcement impose an immediate and ongoing harm on Plaintiff that warrants declaratory relief.

COUNT VI
Compelled Speech in Violation of the Free Speech Clause of the First Amendment

185. Plaintiff repeats and re-alleges each of the foregoing allegations in this Complaint.

186. The First Amendment protects against the compelled affirmation of any religious or ideological proposition that the speaker finds unacceptable.

187. The First Amendment protects organizations as well as individuals against compelled speech.

188. Expenditures are a form of speech protected by the First Amendment.

189. The First Amendment protects against the use of a speaker's money to support a viewpoint that conflicts with the speaker's religious or ideological beliefs.

190. The U.S. Government Mandate would compel Plaintiff to provide health care plans to its employees that include or facilitate coverage of practices that violate its religious or ideological beliefs.

191. The U.S. Government Mandate would compel Plaintiff to subsidize, promote, and facilitate education and counseling services regarding these practices.

192. By imposing the U.S. Government Mandate, Defendants are compelling Plaintiff to publicly subsidize or facilitate the activity and speech of private entities that are contrary to its religious beliefs.

193. The U.S. Government Mandate is viewpoint-discriminatory and subject to strict scrutiny.

194. The U.S. Government Mandate furthers no compelling governmental interest.

195. The U.S. Government Mandate is not narrowly tailored to further a compelling governmental interest.

196. Plaintiff has no adequate remedy at law.

197. The U.S. Government Mandate and its impending enforcement impose an immediate and ongoing harm on Plaintiff that warrants declaratory relief.

COUNT VII
Failure to Conduct Notice-and-Comment Rulemaking and Improper Delegation in Violation of the APA

198. Plaintiff repeats and re-alleges each of the foregoing allegations in this Complaint.

199. The Affordable Care Act expressly delegates to an agency within Defendant HHS, the Health Resources and Services Administration, the authority to establish guidelines concerning the “preventive care” that a group health plan and health insurance issuer must provide.

200. Given this express delegation, Defendants were required to engage in formal notice-and-comment rulemaking in a manner prescribed by law before issuing the guidelines that group health plans and insurers must cover. Proposed regulations were required to be published in the Federal Register and interested persons were required to be given an opportunity to participate in the rulemaking through the submission of written data, views, or arguments.

201. Defendants promulgated the "preventive care" guidelines without engaging in formal notice-and-comment rulemaking in a manner prescribed by law.

202. Defendants, instead, delegated their responsibilities for issuing preventive care guidelines to a non-governmental entity, the Institute of Medicine.

203. The Institute of Medicine did not permit or provide for the broad public comment otherwise required under the APA concerning the guidelines that it would recommend. The dissent to the Institute of Medicine report noted both that the Institute of Medicine conducted its review in an unacceptably short time frame, and that the review process lacked transparency.

204. Within two weeks of the Institute of Medicine issuing its guidelines, Defendant HHS issued a press release announcing that the Institute of Medicine's guidelines were required under the Affordable Care Act.

205. Defendants have never explained why they failed to enact these "preventive care" guidelines through notice-and-comment rulemaking as required by the APA.

206. Defendants also failed to engage in notice-and-comment rulemaking when issuing the interim final rules and the final rule incorporating the guidelines.

207. Defendants' stated reasons for promulgating these rules without engaging in formal notice-and-comment rulemaking do not constitute "good cause." Providing public notice

and an opportunity for comment was not impracticable, unnecessary, or contrary to the public interest for the reasons claimed by Defendants.

208. By enacting the "preventive care" guidelines and interim and final rules through delegation to a non-governmental entity and without engaging in notice-and-comment rulemaking, Defendants failed to observe a procedure required by law and thus violated 5 U.S.C. § 706(2)(D).

209. Plaintiff has no adequate remedy at law.

210. The enactment of the U.S. Government Mandate without observance of a procedure required by law and its impending enforcement impose an immediate and ongoing harm on Plaintiff that warrants declaratory relief.

COUNT VIII
Arbitrary and Capricious Action in Violation of the APA

211. Plaintiff repeats and re-alleges each of the foregoing allegations in this Complaint.

212. The APA condemns agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

213. The APA requires that an agency examine the relevant data and articulate an explanation for its action that includes a rational connection between the facts found and the policy choice made.

214. Agency action is arbitrary and capricious under the APA if the agency has failed to consider an important aspect of the problem before it.

215. A court reviewing agency action may not supply a reasoned basis that the agency itself has failed to offer.

216. Defendants failed to consider the suggestion of many commenters that abortion-inducing drugs, sterilization, and contraception could not be viewed as "preventive care."

217. Defendants failed adequately to engage with voluminous comments suggesting that the scope of the religious exemption to the U.S. Government Mandate should be broadened.

218. Defendants did not articulate a reasoned basis for their action by drawing a connection between facts found and the policy decisions they made.

219. Defendants failed to provide any standards or processes for how the Administration will decide which religious institutions will be included in the religious exemption.

220. Defendants failed to consider the use of broader religious exemptions in many other federal laws and regulations.

221. Defendants' promulgation of the U.S. Government Mandate violates the APA.

222. Plaintiff has no adequate remedy at law.

223. The U.S. Government Mandate imposes an immediate and ongoing harm on the Plaintiff that warrants declaratory relief.

COUNT IX
Acting Illegally in Violation of the APA

224. Plaintiff repeats and re-alleges each of the foregoing allegations in this Complaint.

225. The APA requires that all Government agency action, findings, and conclusions be "in accordance with law."

226. The U.S. Government Mandate and its exemption are illegal and therefore in violation of the APA.

227. The Weldon Amendment states that "[n]one of the funds made available in this Act [to the Department of Labor and the Department of Health and Human Services] may be made available to a Federal agency or program . . . if such agency, program, or government subjects any institutional or individual health care entity to discrimination on the basis that the

health care entity does not provide, pay for, provide coverage of, or refer for abortions." Consolidated Appropriations Act of 2012, Pub. L. No. 112-74, div. F, tit. V, § 507(d), 125 Stat. 786, 1111 (2011).

228. The Affordable Care Act states that "nothing in this title (or any amendment by this title) shall be construed to require a qualified health plan to provide coverage of [abortion] services . . . as part of its essential health benefits for any plan year." 42 U.S.C. § 18023(b)(1)(A)(i). It adds that "the issuer of a qualified health plan shall determine whether or not the plan provides coverage of [abortion.]" *Id.* § 18023(b)(1)(A)(ii).

229. The Affordable Care Act contains no clear expression of an affirmative intention of Congress that employers with religiously motivated objections to the provision of health plans that include coverage for abortion-inducing drugs, sterilization, contraception, or related education and counseling should be required to provide such plans.

230. The U.S. Government Mandate requires employer-based health plans to provide coverage for abortion-inducing drugs, sterilization, contraception, and related education. It does not permit employers or issuers to determine whether the plan covers abortion, as the Act requires. By issuing the U.S. Government Mandate, Defendants have exceeded their authority and ignored the direction of Congress.

231. The U.S. Government Mandate violates RFRA.

232. The U.S. Government Mandate violates the First Amendment.

233. The U.S. Government Mandate is not in accordance with law and thus violates 5 U.S.C. § 706(2)(A).

234. Plaintiff has no adequate remedy at law.

235. The enactment of the U.S. Government Mandate that is not in accordance with law and its impending enforcement impose an immediate and ongoing harm on Plaintiff that warrants declaratory relief.

JURY DEMAND

236. Plaintiff respectfully demands a jury trial in this matter.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court:

1. Enter a declaratory judgment that the U.S. Government Mandate violates Plaintiff's rights under RFRA;
2. Enter a declaratory judgment that the U.S. Government Mandate violates Plaintiff's rights under the First Amendment;
3. Enter a declaratory judgment that the U.S. Government Mandate was promulgated in violation of the APA;
4. Enter an injunction prohibiting Defendants from enforcing the U.S. Government Mandate against Plaintiff;
5. Enter an order vacating the U.S. Government Mandate;
6. Award Plaintiff attorneys' fees and expert fees under 42 U.S.C. § 1988; and
7. Award all other relief as the Court may deem just and proper.

Respectfully submitted, this the 21st day of May, 2012.

By: /s/ Terence M. Murphy
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Counsel for Plaintiff

HUI-150758

JS 44 (TXND Rev. 2/10)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

The Roman Catholic Diocese of Dallas

(b) County of Residence of First Listed Plaintiff: Dallas County, Texas
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

See attached complaint.

DEFENDANTS

Kathleen Sebelius, in her official capacity as Secretary of the United States Department of Health & Human Services, et al. (see attached complaint)

County of Residence of First Listed Defendant: Washington, D.C.
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

U.S. Department of Justice

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ❒ 1 U.S. Government Plaintiff
- ❒ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ❒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	❒ 1	❒ 1	Incorporated *or* Principal Place of Business In This State	❒ 4	❒ 4
Citizen of Another State	❒ 2	❒ 2	Incorporated *and* Principal Place of Business In Another State	❒ 5	❒ 5
Citizen or Subject of a Foreign Country	❒ 3	❒ 3	Foreign Nation	❒ 6	❒ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT
- ❒ 110 Insurance
- ❒ 120 Marine
- ❒ 130 Miller Act
- ❒ 140 Negotiable Instrument
- ❒ 150 Recovery of Overpayment & Enforcement of Judgment
- ❒ 151 Medicare Act
- ❒ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ❒ 153 Recovery of Overpayment of Veteran's Benefits
- ❒ 160 Stockholders' Suits
- ❒ 190 Other Contract
- ❒ 195 Contract Product Liability
- ❒ 196 Franchise

REAL PROPERTY
- ❒ 210 Land Condemnation
- ❒ 220 Foreclosure
- ❒ 230 Rent Lease & Ejectment
- ❒ 240 Torts to Land
- ❒ 245 Tort Product Liability
- ❒ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ❒ 310 Airplane
- ❒ 315 Airplane Product Liability
- ❒ 320 Assault, Libel & Slander
- ❒ 330 Federal Employers' Liability
- ❒ 340 Marine
- ❒ 345 Marine Product Liability
- ❒ 350 Motor Vehicle
- ❒ 355 Motor Vehicle Product Liability
- ❒ 360 Other Personal Injury

PERSONAL INJURY
- ❒ 362 Personal Injury - Med. Malpractice
- ❒ 365 Personal Injury - Product Liability
- ❒ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ❒ 370 Other Fraud
- ❒ 371 Truth in Lending
- ❒ 380 Other Personal Property Damage
- ❒ 385 Property Damage Product Liability

CIVIL RIGHTS
- ❒ 441 Voting
- ❒ 442 Employment
- ❒ 443 Housing/ Accommodations
- ❒ 444 Welfare
- ❒ 445 Amer. w/Disabilities - Employment
- ❒ 446 Amer. w/Disabilities - Other
- ☒ 440 Other Civil Rights

PRISONER PETITIONS
- ❒ 510 Motions to Vacate Sentence

Habeas Corpus:
- ❒ 530 General
- ❒ 535 Death Penalty
- ❒ 540 Mandamus & Other
- ❒ 550 Civil Rights
- ❒ 555 Prison Condition

FORFEITURE/PENALTY
- ❒ 610 Agriculture
- ❒ 620 Other Food & Drug
- ❒ 625 Drug Related Seizure of Property 21 USC 881
- ❒ 630 Liquor Laws
- ❒ 640 R.R. & Truck
- ❒ 650 Airline Regs.
- ❒ 660 Occupational Safety/Health
- ❒ 690 Other

LABOR
- ❒ 710 Fair Labor Standards Act
- ❒ 720 Labor/Mgmt. Relations
- ❒ 730 Labor/Mgmt.Reporting & Disclosure Act
- ❒ 740 Railway Labor Act
- ❒ 790 Other Labor Litigation
- ❒ 791 Empl. Ret. Inc. Security Act

IMMIGRATION
- ❒ 462 Naturalization Application
- ❒ 463 Habeas Corpus - Alien Detainee
- ❒ 465 Other Immigration Actions

BANKRUPTCY
- ❒ 422 Appeal 28 USC 158
- ❒ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ❒ 820 Copyrights
- ❒ 830 Patent
- ❒ 840 Trademark

SOCIAL SECURITY
- ❒ 861 HIA (1395ff)
- ❒ 862 Black Lung (923)
- ❒ 863 DIWC/DIWW (405(g))
- ❒ 864 SSID Title XVI
- ❒ 865 RSI (405(g))

FEDERAL TAX SUITS
- ❒ 870 Taxes (U.S. Plaintiff or Defendant)
- ❒ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ❒ 400 State Reapportionment
- ❒ 410 Antitrust
- ❒ 430 Banks and Banking
- ❒ 450 Commerce
- ❒ 460 Deportation
- ❒ 470 Racketeer Influenced and Corrupt Organizations
- ❒ 480 Consumer Credit
- ❒ 490 Cable/Sat TV
- ❒ 810 Selective Service
- ❒ 850 Securities/Commodities/ Exchange
- ❒ 875 Customer Challenge 12 USC 3410
- ❒ 890 Other Statutory Actions
- ❒ 891 Agricultural Acts
- ❒ 892 Economic Stabilization Act
- ❒ 893 Environmental Matters
- ❒ 894 Energy Allocation Act
- ❒ 895 Freedom of Information Act
- ❒ 900Appeal of Fee Determination Under Equal Access to Justice
- ❒ 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ❒ 2 Removed from State Court
- ❒ 3 Remanded from Appellate Court
- ❒ 4 Reinstated or Reopened
- ❒ 5 Transferred from another district (specify)
- ❒ 6 Multidistrict Litigation
- ❒ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (**Do not cite jurisdictional statutes unless diversity**):
5 U.S.C. § 702; 28 U.S.C. §§ 2201, 2202; and 42 U.S.C. § 2000bb-1(c)

Brief description of cause:
Violations of rights under the First Amendment, Religious Freedom Restoration Act & Administrative Procedure Act

VII. REQUESTED IN COMPLAINT:

❒ CHECK IF THIS IS A **CLASS ACTION** UNDER F.R.C.P. 23

DEMAND $ Declaratory and Injunctive Relief; Vacatur; Fees

CHECK YES only if demanded in complaint:
JURY DEMAND: ☑ Yes ❒ No

VIII. RELATED CASE(S) PENDING OR CLOSED: **(See instructions)**

JUDGE ______ DOCKET NUMBER ______

DATE: 05/21/2012

SIGNATURE OF ATTORNEY OF RECORD: /s/ Terence M. Murphy

FOR OFFICE USE ONLY

RECEIPT # ______ AMOUNT ______ APPLYING IFP ______ JUDGE ______ MAG. JUDGE ______