IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION

THE SCHOOL OF THE OZARKS, INC. d/b/a College of the Ozarks,

Plaintiff,

v.

Case No. ____________________

RIGHTCHOICE MANAGED CARE, INC. d/b/a Anthem Blue Cross and Blue Shield,

HEALTHY ALLIANCE LIFE INSURANCE COMPANY d/b/a Anthem Blue Cross and Blue Shield,

HMO MISSOURI, INC. d/b/a Anthem Blue Cross and Blue Shield,

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES,

KATHLEEN SEBELIUS, Secretary of the United States Department of Health and Human Services,

UNITED STATES DEPARTMENT OF LABOR,

SETH D. HARRIS, Acting Secretary of the United States Department of Labor,

UNITED STATES DEPARTMENT OF THE TREASURY,

and

JACK LEW, Secretary of the United States Department of the Treasury,

Defendants.

COMPLAINT

The School of the Ozarks, Inc. d/b/a College of the Ozarks, by and through its attorneys, states as follows for its claims against defendants:

The Civil Action

1. As a Christian organization, The School of the Ozarks, Inc., d/b/a College of the Ozarks (the "College") believes that human life is sacred and begins at conception. The deliberate destruction of human life shortly after conception by abortifacient drugs and devices is a grievous moral wrong. To compel the provision of health insurance that makes available such drugs and devices to College's employees places the College in the impossible position of choosing between civil disobedience or complicity in a grave wrongdoing toward unborn children and violates the College's constitutional rights.

The Parties

2. The College is a four year liberal arts co-educational college located in Point Lookout, Missouri. The College is unique because of its five-fold emphasis – academic, vocational, Christian, patriotic and cultural that is designed to develop citizens of Christ-like character who are well-educated, hard-working and patriotic. All full-time students are required to work in the campus work program to contribute to their cost of education.

3. In 1906, the Missouri Synod of the Presbyterian Church established The School of the Ozarks, and it was granted a charter by the State of Missouri for the purpose (still faithfully administered) of "provid[ing] the advantages of a Christian education for youth of both sexes, especially for those found worthy, but who are without sufficient means to procure such training . . . ."

4. In 2003, the College converted to a not-for-profit corporation governed by Chapter 355 of the Revised Statutes of Missouri, with the stated purpose: "To provide the

advantages of a Christian education for youth of both sexes, especially for those found worthy, but who are without sufficient means to procure such education. To carry out this purpose, the following aims and objectives have been defined: academic growth, vocational growth, Christian growth, patriotic growth and cultural growth."

5. The College has long been guided by a biblical worldview which teaches that human sexuality is a gift from God and that the purpose of this gift includes the procreation of human life and the uniting and strengthening of the marital bond in self-giving love.

6. The College is a member of the Coalition for Christian Colleges and Universities, a national organization of evangelical Christian institutions of higher education, and a member of the Association of Presbyterian Colleges and Universities.

7. RightCHOICE Managed Care, Inc., Healthy Alliance Life Insurance Company, and HMO Missouri Inc. (collectively "Anthem"), are Missouri corporations with their principal places of business located at 1831 S. Chestnut, St. Louis, Missouri, and each have filed fictitious registrations with the Missouri Secretary of State for the use of the trade name "Anthem Blue Cross and Blue Shield."

8. The College purchased a group health insurance plan from Anthem beginning in 1980 and continuing to the present. The College's current plan year began January 1, 2013.

9. The United States Department of Health and Human Services ("HHS"), Kathleen Sebelius, the United States Department of Labor ("Labor"), Seth D. Harris, the United States Department of the Treasury ("Treasury"), and Jack Lew (collectively, the "Departments") are United States governmental departments and the appointed officials in charge of the respective departments. The individually named Defendants are sued in their official capacity only.

Jurisdiction and Venue

10. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1343(a), 1361, and 1367.

11. This Court has jurisdiction to enter declaratory relief under 28 U.S.C. §§ 2201 and 2202, and to award reasonable attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, and 42 U.S.C. § 1988(b).

12. Venue is appropriate in this Court under 28 U.S.C. § 1391(e) because the College is located in this district and division and a substantial part of the events giving rise to this action occurred in this district and division.

Affordable Care Act

13. In March 2010, Congress passed, and the President signed into law, the Patient Protection and Affordable Care Act, Pub. L. 111-148 (March 23, 2010), and the Health Care and Education Reconciliation Act of 2010, Pub. L. 111-152 (March 30, 2010), collectively known as the "Affordable Care Act" ("ACA").

14. The ACA reorganizes, amends, and adds to the provisions of part A of title XXVII of the Public Health Service Act ("PHS Act") relating to group health plans and health insurance issuers in group and individual markets.

15. The ACA adds section 715(a)(1) to the Employee Retirement Income Security Act of 1974 ("ERISA") and section 9815(a)(1) to the Internal Revenue Code ("Revenue Code") to incorporate sections 2701 through 2728 of title XXVII of the PHS Act into ERISA and the Revenue Code, and to make them applicable to group health plans.

16. The College has more than 50 employees and provides its employees with a group health insurance plan issued by Anthem.

17. The College's group health insurance plan renews on January 1 of each year.

Contraceptive Mandate

18. Section 2713 of the PHS Act ('the Contraceptive Mandate"), as added by the ACA, requires that non-grandfathered group health plans and health insurance issuers offering non-grandfathered group or individual health insurance coverage provide benefits for certain preventive health services without the imposition of cost sharing. These preventive health services include, with respect to women, preventive care and screenings provided for in the comprehensive guidelines supported by the Health Resources and Service Administration ("HRSA").

19. The Contraceptive Mandate imposes significant financial penalties on entities with more than 50 employees that decide to provide no health coverage.

20. The Departments published interim final rules implementing section 2713 of the PHS Act in the July 19, 2010 Federal Register (75 Fed. Reg. 41726) (the "2010 Interim Final Rules").

21. The 2010 Interim Final Rules provide that a plan or issuer must provide coverage, without cost sharing, for certain newly recommended preventive health services starting with the first plan year that begins on or after the date that is one year after the date on which the recommendation or guideline is issued. *See* 26 C.F.R. § 54.9815-2713T(b)(1); 29 C.F.R. § 2590.715-2713(b)(1); 45 C.F.R. § 147.130(b)(1).

22. On August 1, 2011, HRSA adopted and released its guidelines (the "HRSA Guidelines") for women's preventive services. *See* http://www.hrsa.gov/womensguidelines.

23. As relevant here, the HRSA Guidelines require coverage, without cost sharing, for "[a]ll Food and Drug Administration [(FDA)] approved contraceptive methods, sterilization

procedures, and patient education and counseling for all women with reproductive capacity," as prescribed by a health care provider.

24. FDA-approved contraceptive methods include: birth-control pills; prescription contraceptive devices, including both plastic and copper IUDs; levonorgestrel, also known as Plan B, Plan B One-Step, Next Choice, and the "morning-after pill" ("Plan B"); ulipristal acetate, also known as *ella* or the "week-after pill" ("*ella*"); and, other drugs, devices, and procedures.

25. The College, in accordance with its religious convictions and conscience, believes that human life begins at conception, i.e., at the fusion of two haploid gametes resulting in the formation of a zygote (the "Child").

26. *Ella* and Plan B operate to inhibit and are intended to operate to inhibit the successful implantation of a Child in the uterus of its mother, causing the death of the Child.

27. The College believes that this death of a Child is a grievous moral wrong. It objects to the compelled provision of health insurance to its employees that makes available abortifacient drugs and devices, including *ella* and Plan B, and the compelled provision of education or counseling to its employees concerning the same, in violation of the College's religious convictions and conscience.

28. Under the 2010 Interim Final Rules, non-grandfathered group health insurance plans and health insurance issuers offering non-grandfathered group health insurance coverage are compelled to provide coverage of women's preventive health services, including abortifacient drugs and devices, consistent with the HRSA Guidelines in plan years beginning on or after August 1, 2012.

29. The College's group health insurance plan is not grandfathered because significant changes in employee co-payments took effect on January 1, 2013.

Exemption for Religious Employers

30. Contemporaneous with the issuance of the HRSA Guidelines, the Departments published an amendment to the 2010 Interim Final Rules in the August 3, 2011 Federal Register (76 Fed. Reg. 46621) (the "2011 Amended Interim Final Rules"), providing HRSA with discretion to exempt group health plans established or maintained by certain religious employers from the requirement to cover contraceptive services otherwise required by the HRSA Guidelines. The 2011 Amended Interim Final Rules appear at 45 C.F.R. § 147.130(a)(iv)(A).

31. Under the 2011 Amended Interim Final Rules, HRSA could, but is not required, to grant an exemption for a "religious employer" meeting 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 primarily serves 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 [Revenue Code].

See 45 C.F.R. § 147.130(a)(iv)(B).

32. Revenue Code, 26 U.S.C. §§ 6033(a)(3)(A)(i) and 6033(a)(3)(A)(iii) refer to churches, their integrated auxiliaries, conventions or associations of churches, and the exclusively religious activities of any religious order.

33. On February 15, 2012, the Departments published their final rules in the Federal Register, adopting "without change," this narrow exemption for "religious employer" (77 Fed. Reg. 8725) ("2012 Final Rules").

34. The College is not a "religious employer" as defined in the 2011 Amended Interim Final Rules.

Temporary Enforcement Safe Harbor

35. On February 10, 2012, Defendant HHS issued a "Guidance" describing a "temporary enforcement safe harbor" ("Safe Harbor") from the Contraceptive Mandate. The Safe Harbor applies to "non-exempted, non-grandfathered group health plans established and maintained by non-profit organizations with religious objections to contraceptive coverage (and any health insurance coverage offered in connection with such plans)."

36. Under the Safe Harbor, qualifying organizations will not be subject to enforcement of the Contraceptive Mandate by the Departments "until the first plan year that begins on or after August 1, 2013," provided they meet certain criteria outlined in the Guidance.

37. The Safe Harbor requires an organization to self-certify that it meets all of the following criteria:

(1) The organization is organized and operates as a non-profit entity.

(2) From February 10, 2012 onward, contraceptive coverage has not been provided at any point by the group health plan established or maintained by the organization, consistent with any applicable State law, because of the religious beliefs of the organization.

(3) The group health plan (or health insurance issuer or third-party administrator) must provide to participants a form notice stating that contraceptive coverage will not be provided under the plan for the first plan year beginning on or after August 1, 2012.

38. The Safe Harbor is only in effect until the first plan year that begins on or after August 1, 2013. If the College qualifies for the Safe Harbor the expiration date is January 1, 2014.

March 2012 Advance Notice of Proposed Rulemaking

39. On March 16, 2012, the Departments issued an Advance Notice of Proposed Rulemaking ("ANPRM"), 77 Fed. Reg. 16501. In the ANPRM, the Departments announced their intention to create an "accommodation" for non-exempt religious organizations. The accommodation would require a health insurance issuer (or third party administrator) – not the religious organization – to provide the contraception coverage outlined in the Contraceptive Mandate to employees covered under the organization's health plan.

August 2012 Guidance

40. On August 15, 2012, Defendant HHS reissued its earlier "Guidance" to "clarify," among other things, that the Safe Harbor is available to "non-profit organizations with religious objections to some but not all contraceptive coverage," and that the actual coverage of contraceptives will not disqualify an employer from eligibility for the Safe Harbor if it "took some action before February 10, 2012, to try to exclude from coverage under the plan some or all contraceptive service because of the religious beliefs of the organization, but that, subsequently, such contraceptive services were covered under the plan despite such action" (the "August 15, 2012 Guidance").

41. The August 15, 2012 Guidance states that the Safe Harbor applies if an organization self-certifies that it meets all of the following criteria:

(1) The organization is organized and operates as a non-profit entity.

(2) From February 10, 2012 onward, the group health plan established or maintained by the organization has consistently not provided all or the same subset of the contraceptive coverage otherwise required at any point, consistent with any applicable State law, because of the religious beliefs of the organization.

(3) The group health plan (or health insurance issuer or third-party administrator) must provide to participants a form notice stating that some or all contraceptive coverage will not be provided under the plan for the first plan year beginning on or after August 1, 2012.

42. Pursuant to the August 15, 2012 Guidance, the College qualifies for the Safe Harbor.

February 2013 Notice of Proposed Rulemaking

43. The Departments published proposed rules in the February 6, 2013 Federal Register (78 Fed. Reg. 8456) (the "February 2013 NPRM"), to amend the criteria for the "religious employer" exemption and to establish a revised "accommodation" for group health coverage established or maintained by certain employers that have religious objections to contraceptive coverage.

44. The February 2013 NPRM's revised "accommodation" would apply to group health plans established or maintained by an "eligible organization" with religious objection to contraceptive coverage.

45. The revised "accommodation" would automatically enroll employees of an "eligible organization" in a separate health care plan covering FDA-approved contraceptives, such as abortifacient drugs and devices including *ella* and Plan B, upon the employer's government-mandated purchase of the primary policy.

46. The cost for the separate contraceptive coverage has been estimated by the Departments to range between $21 and $41 per employee per month.

47. The February 2013 NPRM purports to shift this cost to Anthem by requiring Anthem to "automatically" enroll participants and beneficiaries of the College's group health insurance plan in a separate health insurance policy that covers abortifacient drugs and devices, all at no charge to the plan employees and their families.

48. Under the February 2013 NPRM, the costs of the separate provision of abortifacient drugs and devices will ultimately be borne by the College through its payment of premiums to Anthem.

49. The February 2013 NPRM would define an "eligible organization" as an employer that meets all of the following criteria:

> (1) The organization opposes providing coverage for some or all of the contraceptive services required to be covered under section 2713 of the PHS Act on account of religious objections.
>
> (2) The organization is organized and operates as a nonprofit entity.
>
> (3) The organization holds itself out as a religious organization.
>
> (4) The organization self-certifies that it satisfies the first three criteria.

50. The College is an "eligible organization" as that term is defined in the February 2013 NPRM.

51. The February 2013 NPRM's revised "accommodation" erroneously claims that an "eligible organization" will not be compelled to arrange, ultimately pay, or otherwise be complicit in the provision of a group health insurance plan that includes coverage for abortifacient drugs and devices.

52. Under the February 2013 NPRM's revised "accommodation," the College, contrary to its religious beliefs, will be forced to provide group health insurance coverage to its employees or face substantial penalties. The government-mandated provision of group health insurance coverage by the College "automatically" triggers the provision of a separate plan covering abortifacient drugs and devices, so the College is coerced into being complicit in the provision of coverage that it finds religiously and morally objectionable and that is contrary to the College's religious beliefs.

53. But for the College providing a primary group health insurance plan to its employees, the College's employees would not receive the separate plan from Anthem covering certain abortifacient drugs and devices.

College is Being Forced to Provide Insurance to its Employees that Violates its Religious Beliefs

54. In the early 2000's, after becoming aware that some health insurance plans provided coverage for elective use of abortifacient drugs and devices, the College made a specific request to Anthem that coverage for elective abortions be removed from the group health insurance plan issued to its employees.

55. At that time, Anthem assured the College that its group health insurance plan did not cover elective abortions.

56. In July 2012, Anthem reassured the College that its group health insurance plan did not cover elective abortions or any type of pharmaceutical that would induce the termination of a pregnancy.

57. The College reasonably relied on the representations of Anthem that coverage for abortifacient drugs and devices was not provided under its group health insurance plan.

58. In December 2012, the College received the 2013 Summary of Benefits for the group health insurance plan issued by Anthem. The Summary of Benefits did not expressly exclude coverage for elective abortions or abortifacient drugs and devices.

59. In response to the Summary of Benefits, the College inquired of Anthem whether the drugs "ulipristal acetate" or "levonogestrel" were covered by the policy to be issued by Anthem effective January 1, 2013, and whether those drugs had been covered by the College's plan at any time since January 1, 2010.

60. Notwithstanding the prior assurances from Anthem, the College was now told that both *ella* and Plan B had been covered during plan years 2010, 2011, and 2012, and that abortifacient drugs and devices were going to be covered by the 2013 group health insurance plan.

61. In accord with its religious beliefs, convictions, and conscience, the College promptly requested that Anthem exclude coverage of *ella* and Plan B from the 2013 group health insurance plan.

62. Anthem refused, and continues to refuse, to exclude coverage for *ella* and Plan B from the College's group health insurance plan, asserting that the provision of abortifacient drugs and devices under the College's group health insurance plan is required by the ACA and the Departments' regulations, and therefore Anthem "cannot accommodate a request to exclude" said coverage without finding itself in conflict with federal health care law.

63. Accordingly, Anthem has failed and/or refused to provide notice to the College's group health insurance plan participants that the College qualifies for the Safe Harbor and that the plan will not include coverage of abortifacient drugs and devices.

64. But for Anthem's acts, omissions, and misrepresentations the College would temporarily be aided by the Safe Harbor.

65. As a result of the Departments' actions and Anthem's acts, omissions, and misrepresentations, the College faces a damaging crisis of conscience: civil disobedience resulting in monetary penalties or ongoing violation of its religious beliefs and convictions.

COUNT I
Relief as to Anthem

66. The College restates and realleges paragraphs 1 through 64 as though fully set forth herein.

67. The College took action to exclude coverage for elective abortions, including *ella* and Plan B, from its group health insurance plan prior to February 10, 2012, and yet due solely to the acts, omissions, and misrepresentations of Anthem the College was not successful in excluding such coverage.

68. Anthem has failed and refused, and continues to fail and refuse, to honor the College's federal rights to exclude coverage for elective abortions and to provide a Safe Harbor notice to the College's group health insurance plan participants (i.e., employees and their families).

69. Anthem, on its own initiative, has acted willfully as a joint participant in the deprivation of the College's federal statutory and constitutional rights, by unilaterally, and erroneously, determining that the College does not qualify for the Safe Harbor and that the College is or should be bound by the Contraceptive Mandate when in fact the College is not or should not be so bound.

70. The College is suffering and will continue to suffer immediate and specific injury absent injunctive and declaratory relief.

WHEREFORE, The School of the Ozarks, Inc. d/b/a College of the Ozarks prays the Court enter its judgment declaring that Anthem must permit the College to refuse coverage of abortifacient drugs and devices such as *ella* and Plan B, as part of the College's group health insurance plan; awarding nominal damages against Anthem for its role in creating a crisis of conscience that has been and continues to be harmful to the College; awarding the College the costs of this action and reasonable attorney's fees; and granting such other and further relief as the Court deems just and proper.

COUNT II
Violation of the Religious Freedom Restoration Act
42 U.S.C. § 2000bb

71. The College restates and realleges paragraphs 1 through 69 as though fully set forth herein.

72. The College's religious beliefs prohibit it from making certain FDA-approved abortifacient drugs and devices, such as *ella* and Plan B, and related education and counseling, available to its employees or being complicit in making said abortifacients and counseling available.

73. The College's observance of its religious beliefs is the sincere exercise of religion within the meaning of the Religious Freedom Restoration Act.

74. The Contraceptive Mandate and the actions of the Departments impose a present and substantial burden on the College's exercise of its religion.

75. The Contraceptive Mandate and the actions of the Departments violate the College's rights under the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb, *et seq.*

76. The College is suffering and will continue to suffer immediate and specific injury absent injunctive and declaratory relief.

WHEREFORE, The School of the Ozarks, Inc. d/b/a College of the Ozarks prays the Court enter its judgment declaring that the Contraceptive Mandate and the Departments' actions in enforcement of the Contraceptive Mandate against the College violate the Religious Freedom Restoration Act; prohibiting and enjoining the Departments from enforcing the Contraceptive Mandate against the College on the basis of the College's statutory and constitutional rights to refuse to provide insurance coverage for, or access to abortifacient drugs and devices, and related education and counseling, without facing financial penalty from the Departments; awarding the College the costs of this action and reasonable attorney's fees; and granting such other and further relief as the Court deems just and proper.

COUNT III
Violation of the First Amendment to the United States Constitution
Free Exercise Clause

77. The College restates and realleges paragraphs 1 through 75 as though fully set forth herein.

78. The First Amendment's Free Exercise Clause prohibits the government from violating the College's religiously informed conscience. The College's observance of its religious beliefs is the exercise of religion within the meaning of the Free Exercise Clause.

79. The Contraceptive Mandate and the actions of the Departments expose the College to ruinous fines for its religious beliefs and the exercise of those beliefs. The Contraceptive Mandate and the actions of the Departments impose a substantial burden on the College's exercise of its religious beliefs.

80. The College's religious beliefs prohibit it from making certain FDA-approved abortifacient drugs and devices, such as *ella* and Plan B, and related education and counseling

available to its employees through the provision of health insurance coverage, or from being complicit in the provision of such coverage.

81. The Contraceptive Mandate is not neutral because it contains exemptions and exclusions on a religious basis.

82. The Contraceptive Mandate is not generally applicable because many nonprofit and for-profit organizations are exempt or excluded.

83. The Departments have devised individualized assessments that relieve some organizations from the Contraceptive Mandate, but that do not relieve the College for its religious reasons.

84. Defendants designed the Contraceptive Mandate, the "religious employer" exemption, and the "eligible organization" accommodation in a way that makes it impossible for the College to practice its religious beliefs.

85. The College is suffering and will continue to suffer immediate and specific injury absent injunctive and declaratory relief.

WHEREFORE, The School of the Ozarks, Inc. d/b/a College of the Ozarks prays the Court enter its judgment declaring that the Contraceptive Mandate and the Departments' enforcement of the Contraceptive Mandate against the College violate the Free Exercise Clause of the First Amendment to the United States Constitution; prohibiting and enjoining the Departments from enforcing the Contraceptive Mandate against the College on the basis of the College's constitutional rights to refuse to provide insurance coverage for, or access to abortifacient drugs and devices, and related education and counseling, without facing financial penalty from the Departments; awarding the College the costs of this action and reasonable attorney's fees; and granting such other and further relief as the Court deems just and proper.

COUNT IV
Violation of the First Amendment to the United States Constitution
Establishment Clause

86. The College restates and realleges paragraphs 1 through 84 as though fully set forth herein.

87. The First Amendment's Establishment Clause prohibits, *inter alia*, the government taking sides on religious questions and differences, as well as excessive government entanglement with religion.

88. The Contraceptive Mandate violates the Establishment Clause by requiring excessive governmental entanglement with religion, including the civil resolution of religious questions and differences in an effort to apply its exemptions and exclusions, so as to determine which religious organizations are required to comply with the Contraceptive Mandate, which religious organizations are exempt as a "religious employer," and which religious organizations are eligible merely for an "accommodation" as an "eligible organization."

89. The Contraceptive Mandate vests HRSA with unbridled discretion in deciding whether to allow exemptions to some, all, or no organizations meeting the definition of "religious employer."

90. The Contraceptive Mandate creates impermissible distinctions by creating a tiered exemption system of "religious enough" and "not sufficiently religious" organizations, the former of which meet the Departments' definition of "religious employer," and are exempt from the Contraceptive Mandate, and the latter of which are subject to the Contraceptive Mandate. The application of such distinctions invites the civil resolution of religious questions and differences.

91. The Contraceptive Mandate requires governmental entanglement with religion by causing the government to make determinations concerning religious teachings, values, views, and events, including whether an organization is a "religious employer," and whether an organization is an "eligible employer."

92. The Contraceptive Mandate and the actions of the Departments exceed the restraints on governmental authority imposed by the Establishment Clause, and invade the sphere reserved for religion.

93. The College is suffering and will continue to suffer immediate and specific injury absent injunctive and declaratory relief.

WHEREFORE, The School of the Ozarks, Inc. d/b/a College of the Ozarks prays the Court enter its judgment declaring that the Contraceptive Mandate and Departments' enforcement of the Contraceptive Mandate against the College violate the Establishment Clause of the First Amendment to the United States Constitution; prohibiting and enjoining the Departments from enforcing the Contraceptive Mandate against the College on the basis of the College's constitutional rights to refuse to provide insurance coverage for, or access to abortifacient drugs and devices, and related education and counseling, without facing financial penalty from the Departments; awarding the College the costs of this action and reasonable attorney's fees; and granting such other and further relief as the Court deems just and proper.

COUNT V
Violation of the First Amendment to the United States Constitution
Freedom of Speech

94. The College restates and realleges paragraphs 1 through 92 as though fully set forth herein.

95. The Contraceptive Mandate's compelled provision of insurance for education and counseling concerning abortifacient drugs and devices, "automatically" triggered by the College's provision of insurance coverage for its employees, compels the College to pay for speech that is contrary to its religious beliefs.

96. The College's refusal to provide insurance for *ella* and Plan B, and for education and counseling concerning abortifacients, is expressive conduct stemming from religious faith and belief.

97. The Contraceptive Mandate and the actions of the Departments violate the College's right to be free from compelled speech, and the College's right and opportunity to conduct itself in a religiously expressive manner to employees, students, parents of students, alumni, donors, and the College's community, as secured to it by the Free Speech Clause of the First Amendment to the United States Constitution.

98. Students, parents of students, alumni, and donors expect the College to be true to the Christian faith and thus pro-life without compromise, and to clearly message that belief and practice. The actions of the Departments undermine and prevent the sending of that unadulterated message.

99. The College is suffering and will continue to suffer immediate and specific injury absent injunctive and declaratory relief.

WHEREFORE, The School of the Ozarks, Inc. d/b/a College of the Ozarks prays the Court enter its judgment declaring that the Contraceptive Mandate and the Departments' enforcement of the Contraceptive Mandate against the College violate the Free Speech Clause of the First Amendment to the United States Constitution; prohibiting and enjoining the Departments from enforcing the Contraceptive Mandate against the College on the basis of the

College's constitutional rights to refuse to provide insurance coverage for, or access to abortifacient drugs and devices, and related education and counseling, without facing financial penalty from the Departments; awarding the College the costs of this action and reasonable attorney's fees; and granting such other and further relief as the Court deems just and proper.

HUSCH BLACKWELL LLP

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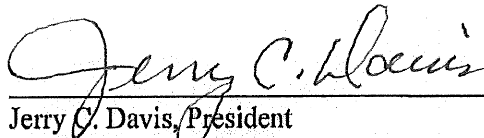
VERIFICATION OF COMPLAINT PURSUANT TO 28 U.S.C. § 1746

I verify under penalty of perjury that the foregoing is true and correct.

Executed on this 19th day of April, 2013.



Jerry C. Davis, President
The School of the Ozarks, Inc. d/b/a
College of the Ozarks