



# Alert

## Life Sciences and Health Care Client Service Group

To: Our Clients and Friends

May 3, 2011

### Federal Judge in Missouri Dismisses Legal Challenge to Health Care Reform

Last Tuesday, Judge Rodney W. Sippel in the U.S. District Court for the Eastern District of Missouri, Southeastern Division, entered an order dismissing a lawsuit filed by Lt. Gov. Peter Kinder that challenged the Patient Protection and Affordable Care Act (PPACA).

The lawsuit (*Kinder et al. v. Geithner et al.*, 1:10-cv-101) was filed in July 2010 in federal court in Cape Girardeau, Missouri. Kinder filed the suit, joined by six other Missouri residents, as a private citizen after the state's attorney general, Chris Koster (a Democrat) declined to join other states in challenging the health care law. The defendants named were Department of Treasury Secretary Timothy Geithner, Department of Health and Human Services Secretary Kathleen Sebelius, Department of Labor Secretary Hilda Solis and U.S. Attorney General Eric Holder; each were sued in their official capacity.

The plaintiffs advanced nine causes of action - challenging several provisions of PPACA - and asked the court to declare the challenged provisions unconstitutional and to enjoin the defendants from enforcing those provisions. The first four counts were based on the principles of federalism, state sovereignty and the Tenth Amendment. For example, in the first count, the plaintiffs claimed: "PPACA is unconstitutional because it commandeers Missouri state employees and compels them to enforce a health care scheme in contravention of Missouri's sovereignty." Other counts alleged violations of the Commerce Clause, the Equal Protection Clause and the Due Process Clause.

In his order dismissing the lawsuit, Judge Sippel found that he did not have subject matter jurisdiction, which refers to a court's power to hear and determine a case. Specifically, Judge Sippel dismissed certain claims because the plaintiffs, who sued as individuals, did not have standing to defend Missouri's sovereignty from federal encroachment. The Judge dismissed other claims because they alleged injuries from provisions of the health care law that have not taken effect yet. Judge Sippel explained: "That a case may present issues that are particularly 'important' or controversial does not cure a complaint's failure to present an actual case and controversy."

This Client Alert is published for the clients and friends of Bryan Cave LLP. Information contained herein is not to be considered as legal advice. This Client Alert may be construed as an advertisement or solicitation. © 2011 Bryan Cave LLP. All Rights Reserved.

In a written statement, Kinder condemned the dismissal, calling it a “truly extreme ruling” and stating that he intends to appeal to the 8<sup>th</sup> Circuit Court of Appeals. Kinder filed a Notice of Appeal last Friday.

Approximately two dozen other federal judges throughout the country have dismissed challenges to health care reform over standing. In other challenges, where standing was found, PPACA was upheld by three federal judges and deemed unconstitutional by two federal judges. These cases will proceed to the federal appeals courts for further findings, but the Supreme Court will likely have the final say on the issue.

If you have any questions about this recent ruling or other health care law matters, please contact any member of the Bryan Cave [Life Sciences and Health Care](#) team.