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Supreme Court Will Hear Challenge to Health Reform Law

By Jed Morrison

Minutes after President Obama signed landmark Health Reform legislation on March 23, 2010, the first suit challenging the law was filed in U.S. district court in Florida. That case, after working its way through the district court and the United States Court of Appeals for the Eleventh Circuit, will now be heard by the U.S. Supreme Court, the Court announced today.

The Eleventh Circuit is the only circuit so far to invalidate the law. The Fourth Circuit dismissed two cases on procedural grounds, while the Sixth Circuit and the District of Columbia Circuit issued rulings upholding the constitutionality of the law under the Commerce Clause. Legal observers speculated that the Court would choose the Eleventh Circuit case, as it most squarely presents the issues of the constitutionality of the law under the Commerce Clause, the Necessary and Proper Clause, and the Taxing Power clause. The Court also agreed to hear the procedural issue of whether the Anti-Injunction Act prevents the federal court from having jurisdiction to hear the case.

The plaintiffs in the Florida case were 26 states, private individuals Mary Brown and Kaj Ahlburg, and the National Federation of Independent Businesses. The defendants are the federal departments of Health and Human Services, Treasury, and Labor, and their Secretaries. The 26 state plaintiffs argued, and the federal district court agreed, first that the Medicaid expansion provisions were unconstitutionally coercive to the states. In addition, the court ruled that the individual mandate – the requirement that all individuals must purchase health insurance or pay a "penalty" – exceeded congressional authority under the Constitution because it was not enacted pursuant to Congress's taxing power, and it exceeded Congress's power under the Commerce Clause and the Necessary and Proper Clause. The district court also agreed with the Plaintiffs that the individual mandate provision was not severable from the rest of the Act and thus declared the entire Act invalid.

The Eleventh Circuit reversed the district court ruling on the constitutionality of the Medicaid expansion provisions, and also ruled the individual mandate was severable from the rest of the law. It agreed with the lower court that the law violated the Commerce Clause, however, and that it was not resurrected by either the Necessary and Proper Clause, or the Constitution's Taxing Power. The Court thus struck down the individual mandate provision from the rest of the law. Both the United States and the plaintiffs appealed.

The Supreme Court agreed to devote an almost unprecedented 5½ hours of oral argument to the case, compared to the customary one hour. The argument likely will be scheduled by March 2012 and a ruling issued by June 2012.

For any questions on the effect of the pending appeals, contact **Jed**

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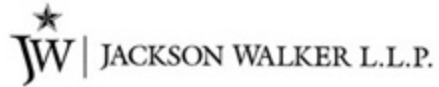
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