

Second Federal Court Temporarily Enjoins Application Of Contraceptive Mandate To A For-Profit Business

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On Oct. 31, 2012, Judge Robert Cleland of the United States District Court for the Eastern District of Michigan temporarily enjoined the application of part of the Patient Protection and Affordable Care Act (ACA) to a for-profit business while the court considers whether the ACA infringes upon the free exercise of religion. A copy of this decision, *Legatus v. Sebelius*, can be [found here](#).

Daniel Weingartz is the President of Weingartz Supply Company, a family-owned business that sells outdoor power equipment and employs approximately 170 individuals. In accordance with his Catholic faith, Weingartz designed a health insurance policy for his company's employees that excludes contraception. Weingartz objects to a provision of the ACA, commonly known as the contraceptive mandate, which requires most employer health plans to provide coverage for narrowly defined contraceptive services. Although the contraceptive mandate has an exception for certain non-profit religious employers, there is no exception for for-profit employers. Weingartz and his business argued that the contraception mandate violates their right of free exercise of religion. The Court granted an injunction against the application of the contraceptive mandate to Weingartz Supply Company while the Court considers the merits of the Weingartz's claims.

This decision is similar to [the decision in *Newland v. Sebelius*](#), where the U.S. District Court for the District of Colorado temporary enjoined the application of the contraceptive mandate to Hercules Industries, Inc., a Colorado corporation that manufactures and distributes heating, ventilation, and air conditioning products and equipment.

In contrast, the United States District Court for the Eastern District of Missouri recently denied a request for an injunction against the contraceptive mandate. On Sept. 28, 2012, Judge Carol Jackson denied a request for injunction on behalf of O'Brien Industrial Holdings, LLC, a secular, for-profit company in St. Louis, Missouri that is engaged in the business of mining, processing, and distributing refractory and ceramic materials and products. Judge Jackson's decision in *O'Brien v. United States Department of Health and Human Services* can be [found here](#).

Following the re-election of President Obama, it is clear that the ACA will move forward, and the resulting litigation will continue. Given the split developing among the federal district courts, it is becoming more likely that Circuit Courts of Appeal, and eventually the Supreme Court, will consider the application of the contraceptive mandate to private employers. Employers and practitioners should watch for future developments in these cases to see

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