



White House Successfully Petitioned SCOTUS For ACA Birth Control Benefit Review — An Unsurprising Move Given Trump’s Health Department Is Stacked With People Who Have Long Fought The Benefit

May 2020: The Supreme Court Hears Oral Arguments That Challenge The ACA Birth Control Benefit For The Third Time

Two May 2020 SCOTUS Cases, *Trump v. Pennsylvania* And *Little Sisters Of The Poor v. Pennsylvania*, Challenge The ACA Birth Control Benefit For The Third Time. “On May 6, 2020, the Supreme Court will hear oral arguments for [Trump v. Pennsylvania](#), and a related case, [Little Sisters of the Poor v. Pennsylvania](#), marking the third round of litigation involving the Affordable Care Act’s regulations on contraceptive coverage that has reached the high court. In these cases, it is Pennsylvania and New Jersey, not religious employers, that are leading the challenge to the Trump Administration’s contraceptive coverage regulations under the Affordable Care Act (ACA) giving employers wide latitude to claim an exemption from the requirement.” [[Kaiser Family Foundation, 5/4/20](#)]

Previous SCOTUS Cases On The Birth Control Benefit Did Not Decide If It Violated Religious Rights Of Employers — And Were Ruled On By The Court Before Justices Gorsuch And Kavanaugh Were Seated. “While the cases currently before the Supreme Court involve the Trump Administration’s regulations published in November 2018, at the core of these cases is an unresolved issue from the previous litigation. Although the Supreme Court has previously reviewed two cases involving challenges from religious employers to the ACA contraceptive coverage requirement, [Burwell v. Hobby Lobby](#) and [Zubik v. Burwell](#), the Court never decided whether the Obama Administration’s regulations violate the religious rights of religiously affiliated nonprofit employers.... In previous cases, the Supreme Court rulings tried to balance the beliefs of religious employers with women’s entitlement to receive no-cost contraceptive coverage. Since the Court last considered these regulations, Justices Gorsuch and Kavanaugh have joined the Court forming a solid conservative majority that may influence the outcome of these cases.” [[Kaiser Family Foundation, 5/4/20](#)]

October 2019: In Wake Of Trump Administration’s Legally Embattled Rule Allowing Employers To Circumvent The Birth Control Mandate Due To Religious Or Moral Beliefs, White House Petitioned The Supreme Court To Review Case

The White House Challenged The ACA Contraceptive Mandate, Which Requires Employers To Cover Birth Control As Part Of Health Insurance. “White House pushes for Obamacare birth control review. The Trump administration is [petitioning](#) the Supreme Court to

review the legality of a rule that would dramatically expand which employers can be exempted from covering free contraception as part of health insurance. The administration has been fighting to implement the rule ever since it was announced in 2017.” [PULSE, 10/8/19]

- **The Religious/Moral Exemption Rule Has Long Been Legally Embattled In Courts.** “A Pennsylvania judge [blocked](#) the Trump administration rule in January, and the 3rd Circuit Court of Appeals [upheld](#) that stay this summer. One of the main legal issues: The Trump administration put out an interim final rule without first going through the standard public notice and comment period. Another issue is whether HHS exceeded its authority in enacting a massive change to Obamacare without Congress' approval.” [PULSE, 10/8/19]

Should The Supreme Court Allow Trump’s Religious/Moral Exemption Rule To Go Into Effect, Almost Any Employer Could Deny Contraceptive Coverage. “POLITICO's Alice Miranda Ollstein notes that should the high court allow the rule to take effect, almost any employer, larger or small, could claim a religious or moral opposition to offering contraception coverage as required by the Affordable Care Act.” [PULSE, 10/8/19]

Trump’s Department Of Health And Human Services Engineered The Religious/Moral Exemption Rules — And The HHS Officials Who Worked On It Have Been Working To Roll Back The Mandate Since The ACA Passed

May 2019: A Finalized HHS Rule Built Upon Existent “Conscience Protection” Rules To Enable Health Workers Who Cite “Religious Or Moral Exemptions” To Deny Care

The May 2, 2019 Finalized Rule Made It Easier For Health Care Workers To Deny Care Based On Moral/Religious Beliefs. “The Trump administration Thursday finalized new [rules](#) making it easier for health care workers to refuse to provide care that violates their religious or moral beliefs, advancing a policy favored by anti-abortion groups and Christian conservatives closely allied with the Trump administration. [[Politico, 5/2/19](#)]

- **The 2019 Finalized Rule Is Very Similar To The Proposed Version Of The Rule, Released By HHS In January 2018.** “The final rule is in most respects quite similar to the version [first proposed in January 2018](#). Despite some changes, the Trump administration is still providing potent new tools for already powerful [health care, educational and social services institutions](#) to impose their values and agenda on society.” [[Guttmacher Institute, 5/3/19](#)]

Donald Trump Remarkd The Rules Are Part Of A Culture That “Cherishes The Dignity And Worth Of Human Life.”... “The rules will protect ‘physicians, pharmacists, nurses, teachers, students and faith-based charities,’ President Donald Trump said during Rose Garden remarks noting the National Day of Prayer. ‘Together, we are building a culture that cherishes the dignity and worth of human life.’” [[Politico, 5/2/19](#)]

...While The National Women’s Law Center Says That The Rule Is “An Enormous Expansion” Of Longstanding Conscience Protections, Dangerous For LGTBQ People And Those Seeking Abortions. “...patient advocates have warned the rules, which were first proposed over a year ago, could make it harder for women to receive emergency abortions or access contraception, and they say providers may be able to refuse care to gay and

transgender patients... Gretchen Borchelt of the National Women's Law Center called Thursday's announcement 'an enormous expansion' of longstanding conscience protections. 'It would mean a woman seeking birth control at a pharmacy could be turned away,' Borchelt said. 'A woman facing an unintended pregnancy could be denied information about her options.' [Politico, 5/2/19]

The Rule Broadened The Types Of Issues That Can Qualify As Religious Or Conscience Rights

The Rule Finalized "Broad Protections For Health Workers Who Cite Religious Or Moral Objections To Providing Services." "A second rule would finalize broad protections for health workers who cite religious or moral objections to providing services such as abortion or contraception, a priority for Christian conservative groups allied with the administration." [Politico, 4/24/19]

This Rule Built Upon 25 Existent "Conscience Protection" Laws That Enable Doctors To Deny People Care On The Basis Of Their Own Ideology

The Rule, Which Mentions 'Abortion' Over 150 Times, Expanded The Types Of Activities That Health Professionals Could Decline To Assist In On Moral/Religious Grounds. "The upcoming release of the agency's rule will give Severino's office additional authority. Despite rising concerns from some liberal advocacy groups about the proposed version, Severino said the rule will only be used to build on Congress' intentions. The rule, which has been under final review since January, would expand the types of activities health professionals could decline to assist in on moral or religious grounds. Severino said Congress has passed 25 difference conscience protections over the years, and said the rule would allow OCR to better enforce these policies. Many of these provisions deal with different aspects of abortion. The word 'abortion' is mentioned over 150 times in the proposed version of the rule." [Roll Call, 4/17/19]

Just Before The Rule Was Finalized, OCR Changed Its Mission Statement To More Aggressively Investigate "Religious Freedom" Violations

The Office For Civil Rights Changed Its Mission Statement To Call Itself An "HHS Law Enforcement Agency." "...the office last week changed its mission statement to reflect it is now an "HHS law enforcement agency" that will more aggressively investigate potential violations of religious freedom. Office leaders have said more than 300 complaints about conscience rights were received in fiscal year 2018." [Politico, 5/2/19]

- **The OCR Mission Statement Did Not Previously Include "Conscience And Religious Freedom" Or "Religious Discrimination" Language.** "Between April 24, 2019 and April 30, 2019, HHS altered the 'OCR Leadership' page (Webpage 1) on its Office for Civil Rights (OCR) website to overhaul the "OCR Mission & Vision" section. The section previously did not include any references to 'conscience and religious freedom' or 'religious discrimination.' It now includes text that states the office 'educates the public concerning our nation's civil rights, conscience and religious freedom' and ensures that HHS-conducted or funded programs 'comply with federal laws that guarantee [sic] the protection of conscience and free exercise of religion and prohibit coercion and religious discrimination.'" [Sunlight Foundation, 5/1/19]

House Democrats Blocked Funding To Implement The "Conscience Protection" Rule In Their FY 2020 Appropriations Bill

House Democratic Appropriators Blocked Funding To Implement The Trump Administration’s “Conscience Protection” Rule. “House Democratic appropriators today blocked funding to implement a new Trump administration rule aimed at making it easier for health workers to refuse to provide care on religious or moral grounds. The 30-23 vote on an amendment by Rep. Barbara Lee (D-Calif.) broke along party lines and came during a daylong markup of a fiscal 2020 health department spending bill.” [Politico, 05/09/19]

HHS’ Office For Civil Rights Director Roger Severino Has Fought The Birth Control Mandate As A Part Of His “Religious Discrimination” Efforts

OCR Head Roger Severino Said The Rule Follows The Increase Of “Religious Or Moral Conscience Discrimination” Complaints OCR Received. “OCR says it received 1,333 complaints in fiscal 2018 alleging either religious or moral conscience discrimination. The number of religious complaints during the Obama administration wasn’t available, but conscience complaints averaged just 1.25 per year during the previous administration. Overall, the civil rights office received a total of 33,194 complaints in fiscal 2018 on any kind of discrimination — a 16 percent increase from the previous year. OCR enforces federal anti-discrimination laws affecting race, color, national origin, disability, age, and sex in programs that receive agency funding. The office took action on about 86 percent of discrimination cases overall, according to HHS’ fiscal 2020 budget request. So far, only two cases affecting religious or moral conscience complaints have been resolved since the division was formed. But Severino is looking to expand that. HHS is expected to soon release the final version of a rule that could broaden the types of issues that could qualify as a violation of religious or conscience rights.” [Roll Call, 4/17/19]

Severino Has Been At The Helm Of OCR’s “Religious Discrimination” Efforts.

“The [rule](#), which details how HHS will define religious discrimination and how it will investigate such complaints, is the result of a months-long effort by OCR Director Roger Severino to reshape Obama-era policies in ways that are more favorable to conservatives.” [Washington Post, 5/3/19]

Severino Has Long Voiced Opposition To The ACA Birth Control Mandate

Severino, Speaking At The 2018 National Right To Life Convention, Claimed: “We Have Restored Religious Liberty When It Comes To The Contraceptive Mandate.” Severino also claimed that “we have restored religious liberty when it comes to the contraceptive mandate.” [Wichita Eagle, 6/29/18]

Matt Bowman, Principal Advisor to the Director of the HHS Office for Civil Rights, and Katy Talento, Former White House Domestic Policy Council Special Assistant, Were Instrumental In The Trump Administration Rolling Back The ACA’s Birth Control Coverage

Talento, A Long-Time Anti-Birth Control Advocate, Worked With Bowman To Fight The Birth Control Mandate

Talento Was An Architect Of The Trump Administration’s Roll-Back Of Contraceptive Coverage. “Now on the inside — one at the White House, the other at the Department of Health and Human Services — Ms. Talento and Mr. Bowman have a clear path to prosecute their

strong belief that birth control coverage should not be a mandate from Washington. Both are using arguments they honed over years of battle to ensure that a new rule, expected to be issued this month, to roll back the requirement can withstand legal challenge. For some of the Trump administration officials tasked with reversing President Barack Obama's legacy, the path forward has been somewhat rocky. Turning an ideological viewpoint into legislative or administrative policy able to pass legal muster can be difficult for Washington newcomers. But the architects of the Trump contraceptive reversal, Ms. Talento, a White House domestic policy aide, and Mr. Bowman, a top lawyer at the Department of Health and Human Services, have the experience and know-how that others in the administration lack." [[New York Times, 7/10/17](#)]

Bowman Is An Extremist Who Has Also Vocally Opposed Birth Control...

Bowman Has Claimed That Common and Popular Birth Control Methods Like the IUD and Emergency Birth Control Cause Abortions. "When the U.S. Department of Health and Human Services recently put forth their new health coverage mandates, people of faith – and particularly people of faith who operate and work for faith-based organizations – saw the pro-abortion administration's handwriting on the wall. For included in the mandate is a requirement that all insurance plans, and the people who pay for them, provide free coverage for drugs and devices that can destroy early embryos. These include items such as intrauterine devices (IUDs), 'emergency contraception,' and several other drugs, as well as a newly approved method called 'ellaOne,' which can induce early abortions after an embryo implants in the womb. The mandate also compels coverage of sterilization methods, contraception, and counseling in favor of all these things." [[Matt Bowman, Town Hall, 8/17/11](#)]

... And Now He Is Attacking Birth Control From Within The Health And Human Services Department

Bowman Was A Principal Author Of Federal Rules Rolling Back Requirements For Employers To Include Birth Control Coverage In Their Health Insurance Plans. "A principal author of the rules, Matthew Bowman, a top lawyer at the Department of Health and Human Services, represented March for Life in 2014 when he was a lawyer at the Alliance Defending Freedom, a Christian legal advocacy group." [[New York Times, 7/10/17](#)]

<p>White House Senior Advisor and Senior Counsel to the Secretary Paula Stannard Defended HHS' Religious Exemption To The Contraception Mandate And Has Previously Worked To Roll Back The Mandate</p>

Paula Stannard Has Defended The Administration's Religious Exemptions To the ACA's Birth Control Mandate Since It Was First Proposed...

October 2017: Stannard Defended HHS Broad Religious Exemption To The Contraception Mandate, Saying It Would Affect Roughly 120,000 Women. 'The Trump administration announced Friday that it will exempt employers from providing insurance coverage for contraception if it conflicts with their religious or moral beliefs, scaling back a rule created under the Obama administration...Paula Stannard, counsel at HHS, estimated that roughly 120,000 women would be affected by the rule, given the companies that had filed lawsuits against the Obama administration. The official noted, as well, that some organizations object to only certain types of contraception, which she said would reduce the number of people affected. She and

Severino estimated that 99.9 percent of women would not be affected.’ [[Washington Examiner, 10/6/17](#)]

...And Worked To Undermine The Mandate Since Before She Joined The Administration

Previously To Being Hired By The Trump Administration, Stannard Worked To Undermine The ACA’s Birth Control Benefit. “As a wave of [laws](#) allowing businesses and individuals claiming “religious objections” to avoid complying with civil rights laws sweeps the country, President Donald Trump appears to have quietly installed ardent supporters of so-called religious freedom on “[beachhead](#)” teams in various departments. Reportedly among those hires at the Department of Health and Human Services (HHS) is Paula Stannard, who has worked to undermine the Affordable Care Act’s [birth control benefit](#).” [[Rewire News, 4/18/17](#)]

Justin Butterfield, Office For Civil Rights Senior Advisor, Said That OCR’s Conscience And Religious Freedom Division Is Working To “Change The Culture” At HHS To Make It Easier For Entities To Opt Out Of Providing Reproductive Health Care To Women

At A Federalist Society Panel Justin Butterfield Said HHS Under Trump Was Making It Easier For Entities To Deny Women Reproductive Health Care Such As Birth Control

Butterfield Said That Before The Trump Administration, The Federal Government And HHS Often “Were The Problem” For Making It Harder To Deny Women Contraceptive Coverage Under The ACA. “Unfortunately, now that respect for conscience that has existed throughout the history of this country is coming under attack, and a lot of it because so many Americans have a different worldview now...[Lists lawsuits concerning Obamacare’s birth control mandate] And those who don’t understand the core place that religious beliefs take in religious believers’ lives don’t understand — why can’t you just do it? What can’t you just provide the coverage? You can tell us you don’t agree with it. You don’t have to put your name on it, but why not just provide it? Because they don’t understand how core, how fundamental to people’s lives that is In some of these situations, the federal government and, unfortunately, HHS in particular were the problem, either directly, such as with the Affordable Care Act contraceptive mandate, or indirectly through a lack of energy in enforcement of the conscience protection statutes that Congress has already given us. But this administration is committed to restoring the protections for conscience and religious freedom. You can’t have laws that -- even though they look like they’re neutral on their face, they look like they apply to everybody -- but the underlying facts of the situation that led to those laws is governmental targeting of religion.” [[The Federalist Society, 9/14/2018](#)]

Butterfield Said That One Of The Conscience And Religious Division’s Purposes Is To “Change The Culture” At HHS To Make It Easier To Opt Out Of Regulations That Protect Women’s Reproductive Rights Like The Contraception Mandate In The ACA. “So the Department of Health and Human Services has taken its approach to defending the rights of conscience and religious freedom. Last year, we issued interim final rules protecting religious beliefs and moral convictions with respect to the Affordable Care Act’s contraceptive mandate. And then in January of this year, the Office for Civil Rights announced the establishment of the Conscience and Religious Freedom division to restore enforcement of our nation’s existing laws that protect our first freedom, and to encourage a culture within the Department of Health and Human Services that respects the rights of conscience and religious freedom... We created a new division so that it would create parity within the Office for Civil Rights with our two divisions:

one is the Civil Rights division that handles other civil rights statutes, and the other is HIPAA...Now with HIPAA and Civil Rights, we have the Conscience and Religious Freedom division...We also did something interesting: to attempt to change the culture within the Department of Health and Human services to be respectful of the rights of conscience and religious freedom, we got a delegation to enforce RFRA [the Religious Freedom Restoration Act] within HHS, to the Conscience and Religious Freedom division. And with that delegation, whenever HHS does something that might be violative of a person's religious freedom, we as an internal office can look at the statute, and look at what HHS is trying to do, and we can say, 'Okay, is there going to be a religious liberty problem here? Is what HHS is doing, does it comport with federal law and federalized requirements?' So we're hoping that by doing that, we will ensure that the department as a whole is protective and respectful of religious liberty. [[The Federalist Society](#), 9/14/2018]

Butterfield Claimed That Before The Trump Administration, The ACA Made It Too Difficult For Entities To Opt Out Of Providing Reproductive Health Care To Women. "So the Office for Civil Rights within the Department of Health and Human Services has long had enforcement authority for certain federal conscience protections, such as the Weldon Amendment, the Coates-Snow Amendment, the Church amendments, and that enforcement has been very weak historically. And when we have received complaints about it, we have found what I would call creative ways to get out of it. So for example, the Weldon Amendment states: 'None of the funds made available in this act may be made available to a federal agency or program, or to a state or local government if such agency, program, or government subjects any institutional or individual healthcare entity to discrimination on the basis that the healthcare entity does not provide, pay for, provide coverage of, or refer for abortions.' Now when we received a complaint under the Weldon Amendment that a state government had discriminated against an entity for refusing to provide coverage of abortions, previously the HHS Office for Civil Rights said, 'Well, you don't really have a Weldon complaint here because you didn't meet the religious or moral convictions test under Weldon, you didn't state what your moral and religious conviction test was.' Now how many of you caught the religious and moral conviction test that you have to state under the Weldon Amendment? So again, it says, 'None of the funds made available under this act can go to a federal agency or program, or state or local government if they discriminate against any institutional or individual healthcare entity.' Well you can't see it, because it's in the invisible writing that you need the special bureaucratic goggles to read, and so only those of us who have been gifted these goggles can see that there's actually some other text there. [laughing] The interesting thing about this is I've always thought of textualism as an area where the judiciary needs training, but since being at HHS I've seen that bureaucrats need training in textualism too. Nowhere within the Weldon Amendment does it state that you have to state what your beliefs are before you can be protected for that. So we in the Conscience and Religious Freedom Division at the Department of Health and Human Services are working to make sure these laws are enforced as Congress wrote them, and we're making sure there's a vigorous enforcement, that these laws are not mere words on the paper but that they actually have substance." [[The Federalist Society](#), 9/14/2018]

Butterfield Said That Under The Trump Administration, Conscience Complaints To Deny Women Reproductive Health Care Have Increased Exponentially; He Then Encouraged People To File Complaints. "As you can imagine, when we keep issuing letter opinions that get rid of these complaints for things like the invisible clauses that aren't there, it discourages people from filing complaints with the Office for Civil Rights. In the eight years before the 2016 election, the Office for Civil Rights received ten total conscience complaints...Since we've created the Conscience and Religious Freedom division, as of yesterday, we've had about 165 unique complaints -- from the election to yesterday. So apparently there's quite a bit more than

one person per year, just over one person per year, who feels that their rights of conscience are violated, and we're working to make sure that where there is violations of federal conscience protection statutes, that those violations are dealt with. We are going to enforce the law... And we are open for business, so you can help us. If you become aware of a situation where a person's conscience and religious freedom are being violated, go to our website and you can send us a complaint. [[The Federalist Society](#), 9/14/2018]

Justin Butterfield Represented Organizations Challenging Obamacare's Birth Control Mandate In Court

Justin Butterfield Represented Organizations In Court That Were Challenging Obamacare's Birth Control Mandate, And Also The Law's Religious Accommodation That Allowed Organizations To Outsource Contraception Coverage To Third Party Administrators

Butterfield Represented Insight For Living Ministries (IFLM) In A Lawsuit "Defending Its Religious Liberty Rights And Conscience Rights" From What He Referred To As The "Abortion Pill Mandate." "Liberty Institute will defend the religious liberty rights and conscience rights of Insight for Living Ministries' (IFLM)-one of the nation's most respected international Bible-teaching ministries founded by Pastor Charles R. Swindoll, former President and current Chancellor of Dallas Theological Seminary-in a preliminary injunction hearing in the United States District Court, challenging the federal government's abortion pill mandate, which requires even Christian ministries to facilitate the provision of abortion-inducing drugs and devices. A press availability will follow the hearing at the courthouse. Who: Matthew Kacsmaryk, Liberty Institute Deputy General Counsel, and Justin Butterfield, Liberty Institute Senior Counsel, will attend the hearing on behalf of IFLM, and the attorneys will hold a press availability for working press at the court house following the hearing." [[PR Newswire](#), 11/12/2014]

- **In Addition To Arguing That IFLM Should Not Be Required To Provide Its Employees With Health Insurance That Covers Contraception, The Lawsuit Claimed That Using Obamacare's Religious Accommodation Would Also Violate The Ministry's Religious Beliefs Because It "Facilitated" Birth Control Coverage.** "27. The 2013 Mandate creates a separate 'accommodation' for certain non-exempt religious organizations. This 'accommodation' was modified on August 27, 2014, by an interim final rule (the 2013 Mandate, incorporating the August 27, 2014, modification, is the 'Final Mandate'). 28. An organization is eligible for the accommodation if it (1) '[o]pposes providing coverage for some or all of the contraceptive services required'; (2) 'is organized and operates as a nonprofit entity'; (3) 'holds itself out as a religious organization'; and (4) 'self-certifies that it satisfies the first three criteria.' 29. The self-certification must be executed 'prior to the beginning of the first plan year to which an accommodation is to apply.'...32. Thus, an eligible organization would need to execute a self-certification prior to its first plan year that begins on or after January 1, 2014, and either (1) deliver EBSA Form 700 to the organization's insurer or, if the organization has a self-insured plan, to the plan's third party administrator or (2) deliver written notice to HHS, which results in the Department of Labor's notifying the organization's insurer or, if the organization has a self-insured plan, the plan's third-party administrator, that the eligible organization opposes providing coverage for certain contraceptive drugs...34. The effect of delivering either EBSA Form 700 to its third-party administrator or written notice to the HHS is to trigger, directly or indirectly, the third-party administrator's obligations to 'provide payments for contraceptive services,' including contraceptives

that may harm or kill a fertilized human embryo like copper intrauterine devices ('IUDs') (ParaGard, ParaGard T380A), etonogestrel (Implanon, Nexplanon), levonorgestral (Escapelle, Jadelle, Levonelle, My Way, Next Choice, Nogestat, Nordette, NorLevo, Norplant, Plan B, Plan B One-Step, Postinor, Seasonale, Seasonique), levonorgestrel IUDs (Jaydess, Mirena, Skyla), and ulipristal acetate (Ella, EllaOne). 35. Because IFLM has sincerely-held religious objections to facilitating, including indirectly, the provision of abortion-inducing drugs or procedures or education in the use thereof, accepting the 'accommodation' and signing either EBSA Form 700 or the notice to HHS would violate IFLM's sincerely-held religious beliefs by causing IFLM to facilitate such provision through its third-party administrator." [ACLU, 10/22/2014]

Butterfield Represented The Christian And Missionary Alliance Foundation — A Group Of Retirement Homes And Colleges Associated With The Christian Missionary Alliance — In A Lawsuit Arguing That The Birth Control Mandate Violated The Organization's Religious Freedom. "On October 3, 2014, plaintiffs Christian and Missionary Alliance Foundation, Inc. (doing business as Shell Point Retirement Community)(Shell Point), The Alliance Community for Retirement Living, Inc. (Alliance Community), The Alliance Home of Carlisle, Pennsylvania (doing business as Chapel Pointe at Carlisle)(Chapel Pointe), Town and Country Manor of The Christian and Missionary Alliance (Town & Country Manor), Simpson University, and Crown College (collectively plaintiffs) filed a Complaint and Request for Injunctive Relief (Doc. #1) challenging certain regulations issued under the Patient Protection and Affordable Care Act (the Affordable Care Act, ACA, or PPACA) that require them to directly or indirectly provide insurance coverage to their employees which include abortifacient drugs, devices, or services. Plaintiffs are either religious nonprofit retirement communities affiliated with The Christian and Missionary Alliance religious denomination (CMA) or religious nonprofit colleges and universities affiliated with CMA. None of the plaintiffs are exempt from the ACA or its regulations. Defendants are the Secretary of the United States Department of Health and Human Services (HHS), the Secretary of the United States Department of Labor (DOL), the Secretary of the United States Department of Treasury (Treasury), and the Treasury (collectively defendants or the United States). In their six-count Complaint, plaintiffs assert that forced compliance with the regulations is a violation of the Religious Freedom Restoration Act (RFRA), 42 U.S.C. § 2000bb-1 (Count One), and a violation of their rights under both the First and/or Fifth Amendments of the United States Constitution (Counts Two-Six). (Doc. #1.) Plaintiffs' request for a preliminary injunction is premised only on the RFRA claim. (Doc. #20, p. 27.)... Attorney(s) appearing for the Case: Christian and Missionary Alliance Foundation, Inc., doing business as Shell Point Retirement Community, Plaintiff, represented by Christopher Adam Roach, Adams & Reese, LLP, Matthew J. Kacsmaryk, Liberty Institute, Stephanie Marie Martin, Adams & Reese, LLP, Jeffery C. Mateer, Liberty Institute, Jeremiah G. Dys, Liberty Institute & Justin E. Butterfield, Liberty Institute." [Leagle, 2/3/2015]

- **As With The IFLM Case, Butterfield Claimed That Obamacare's Religious Accommodation Would Still Violate The Christian And Missionary Alliance Foundation's Religious Freedom Rights Because It Was "Morally Tantamount To Providing The Objected-To-Contraceptives Themselves."** "...When implementing the 'preventive care' provision of the ACA, the Department of Health and Human Services ('HHS') decided that only some religious believers were entitled to the full protections that the [Religious Freedom Restoration Act of 1993] provides. Knowing that several religious entities—both churches and other religious organizations—objected to having any involvement in providing contraceptives, HHS nonetheless decided to provide a complete exemption from the contraceptive mandate only for churches, and not for other

religious organizations. In HHS's view, non-church religious organizations that shared identical religious beliefs with exempt churches did not deserve the same protection. Instead, they merited only an 'accommodation,' which required them to authorize another entity to take over a portion of their healthcare plans and use the plans to provide contraceptive coverage in their stead—an action that the religious objectors consider morally tantamount to providing the objected-to contraceptives themselves. HHS exceeded its delegated authority and violated the text of RFRA, as well as its history and express purpose, when it refused to protect all religious objectors on equal terms, and created a bifurcated scheme separating those it believed were sufficiently "religious" from those it deemed insufficiently 'religious.' HHS's repeated disregard for the RFRA rights of religious objectors should not be allowed to stand." [[SCOTUSBlog](#)]