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Catholic-owned Michigan company wins injunction against HHS mandate

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Ann Arbor, Mich.

A federal district court judge in Ann Arbor granted a Michigan business, Weingartz Supply Co., a temporary injunction from the Health and Human Services' contraceptive mandate.

The judge on Wednesday also dismissed a lawsuit filed by a nonprofit Catholic group, Legatus, because he said the religious organization qualified for the Obama administration's temporary "safe harbor" from having to comply with the mandate. But he also stipulated the federal government must provide monthly updates on the status of the process for amending final regulations covered by the safe harbor period.

Erin Mersino, lead counsel for Thomas More Law Center, a national public interest law firm based in Ann Arbor, which represented the plaintiffs, told Catholic News Service on Friday that she was "happy with the court decision" and described both decisions as "a straight win for us."

Daniel Weingartz, president of the supply company, which sells outdoor power equipment and employs approximately 170 people, is a Catholic who says the mandate conflicted with his faith.

In the ruling, Judge Robert Cleland of the Eastern District of Michigan, said the "loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." He did not rule on the mandate's constitutionality, but his decision keeps the company from having to comply with the mandate until the constitutional claims are resolved.

"The harm in delaying the implementation of a statute that may later be deemed constitutional must yield to the risk presented here of substantially infringing the sincere exercise of religious beliefs," he said in his 29-page opinion.

Mersino called the ruling "not only a victory for our clients, but for religious freedom."

The HHS mandate requires all employers, including most religious employers, to cover the costs of contraceptives, including some that can cause abortions, and sterilizations in employee health plans.

It does not include a conscience clause for employers who object to such coverage on moral grounds. A narrow exemption applies only to those religious institutions that seek to inculcate their religious values and primarily employ and serve people of their own faith.

In July, a Colorado judge similarly granted a temporary injunction from the HHS contraceptive mandate to Hercules Industries, a Catholic-owned company that provides heating, ventilation and air-conditioning equipment.

The Michigan judge denied without prejudice the motion for preliminary injunction on behalf of Legatus, an organization for Catholic business leaders.

Cleland said Legatus fell under the "safe harbor" provision and as such does not have a claim the mandate violates the organization's rights.

In August, President Barack Obama announced a "temporary enforcement safe harbor," a yearlong period that protects employers from immediate government action against them if they fail to comply with the mandate. The final rule on the mandate takes effect in August 2013.

Cleland also cited a so-called accommodation issued by the Obama administration, allowing those employers to pass on the costs of the mandated coverage to their insurance carriers or a third party, rather than pay for them directly. Catholic dioceses and other entities that are self-insured have raised objections to the provision.

The judge directed the government to continue outline the status of the amendment process for final regulations regarding the HHS mandate. He also said Legatus could approach the court again if the government "acts in a way inimical" to the rights it seeks to protect.

In a similar court case, a federal judge in Oklahoma City began hearing arguments Nov. 1 for a lawsuit filed by the Christian business Hobby Lobby against the federal government's HHS mandate.

Hobby Lobby, based in Oklahoma City, has more than 500 retail stores in 41 states. Its practices include remaining closed on Sundays and hiring company chaplains to minister to employees.

"We have always operated our company in a manner consistent with biblical principles, including integrity and service to others," said David Green, an evangelical Christian who is founder and CEO of Hobby Lobby. "We simply cannot abandon our religious beliefs to comply with this mandate."

Hobby Lobby is the largest company to file suit against the HHS mandate and the only one not owned by a Catholic.

About 50 Catholic dioceses, universities and entities throughout the U.S. have filed lawsuits against the mandate.

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