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Judge says HHS suit filed by archdiocese, other plaintiffs 'premature'

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Washington

The U.S. District Court for the District of Columbia on Friday dismissed a lawsuit filed against the federal contraceptive mandate by the Washington archdiocese and its co-plaintiffs, saying the case is premature in light of the government's "promises to amend the mandate."

"Importantly, this ruling was not based on the merits of our case," said a statement issued by the archdiocese.

"In fact, the court's ruling today places the onus squarely on the government," it said, "to fulfill its binding commitment to address the religious freedom concerns" of the archdiocese, The Catholic University of America, the Consortium of Catholic Academies, Archbishop Carroll High School and Catholic Charities of D.C.

"This requires the government to revise its HHS mandate in a way that truly respects our right to serve all those in need without violating our religious beliefs," the archdiocese said.

U.S. District Judge Amy Berman Jackson issued the ruling, saying that "if after the new regulations are issued, plaintiffs are still not satisfied, any challenges that they choose to bring will be substantially different from the challenges in the current complaint."

Jackson was referring to the federal government stating that it will publish notice of proposed rulemaking in the first quarter of this year and issue a final rule on the mandate before August. In the meantime, the Obama administration has in place a "safe harbor" period that protects employers from immediate government action against them if they fail to comply with the mandate.

The U.S. Department of Health and Human Services mandate requires employers, including most religious employers, to include coverage for contraceptives, sterilization and some abortion-inducing drugs free of charge, even if the employer is morally opposed to such services.

The requirement, which is part of the Affordable Care Act, has a narrow exemption that applies only to those religious institutions that seek to inculcate their religious values and primarily employ and serve people of their own faith. It does not include a conscience clause for employers who object to providing such coverage.

One proposed accommodation from the government would allow those employers who object to providing contraceptives to pass on the costs of the mandated coverage to their insurance carriers or a third party, rather than pay for them directly. But many dioceses are self-insured, and Catholic officials say the policy would offer no fundamental change.

Jackson's decision "was based on two commitments the government made to the court in this case and others: first, that the mandate as currently written will never be enforced against us; and second, that the mandate will be revised in a way that addresses our religious freedom concerns by March 31, 2013," the Washington

archdiocesan statement said.

"The court specifically noted that the archdiocese and its co-plaintiffs have the right to file a new complaint if the government does not make a meaningful change to the mandate by the March deadline'" I added. "The court made clear that 'it would not look favorably upon the government's failure to comply.' "

The archdiocese noted that Jackson's decision was issued the same day as the March for Life marking 40 years of legalized abortion in the U.S., a day "when so many march to honor the dignity of every human life from conception to natural death."

"We are hopeful that this ruling will ensure that Catholic and other religious entities will never be forced to engage in practices that violate our religious beliefs," it added.

In a separate statement released Monday, Catholic University of America officials said they were disappointed by Jackson's ruling but "not discouraged in the least because the judge based her dismissal solely on procedural grounds; she did not rule nor make any judgments on the merits of our case."

"Her procedural ruling hinges on the government's promise to accommodate our objections by March 31, 2013," it added. "We hope that the judge's expectation is correct and look forward to a proposed solution from the government by the end of March that fully satisfies our religious liberty concerns and amicably resolves this dispute."

"If that does not happen, we will find ourselves in court again," the statement said.

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