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Hobby Lobby files brief with Supreme Court in HHS mandate case

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Arts-and-crafts retailer Hobby Lobby has filed a brief with the U.S. Supreme Court seeking protection from a federal mandate that requires coverage of contraceptives in workers' health insurance plans.

The brief, filed Monday, called the mandate "one of the most straightforward violations ... this court is likely to see" of the Religious Freedom Restoration Act of 1993.

Under the Affordable Health Care law, most employers' health plans must include free coverage of contraceptives, sterilizations and other types of birth control opponents say can induce an abortion.

Hobby Lobby, which is being represented by the Becket Fund, a religious liberty law firm, is one of two for-profit employers who object to the requirement. On March 25, the Supreme Court will hear oral arguments in its case and the case filed by Conestoga Wood Specialties, a Pennsylvania family-run company that makes cabinets.

The owners of the for-profit companies object to the contraceptive mandate on religious grounds.

Just a week before Hobby Lobby filed its brief with the court, the Oklahoma-based retailer, operated by the Green family, announced that it would open 70 new stores across the United States in 2014, dispelling rumors circulating through social media that the company would be forced to close its stores in light of the lawsuit against the government. The company has about 16,000 full-time and 12,000 part-time employees.

At issue in the Hobby Lobby and Conestoga cases, will be First Amendment arguments that the contraceptive mandate violates the owners' Free Exercise rights as well as their rights under the Religious Freedom Restoration Act.

Specifically, Hobby Lobby said that the government is mandating the company cover abortifacient drugs and devices -- such as the morning-after pill and Plan B -- in violation of their religious beliefs, even as it concedes that doing so will violate the Green family's beliefs.

The Greens have said they have no moral objection to providing 16 of the 20 FDA-approved contraceptives under the Department of Health and Human Services mandate. The company provides a broad range of contraceptives at no additional cost to employees under their self-insured health plan.

Hobby Lobby's brief calls on previous high court rulings to counter the government's reasoning that the Greens' rights as individuals cannot be exercised through their family-owned corporation.

The brief noted that this freedom does not "turn on (the company's) tax status," adding that federal administration cannot "divide and conquer" the Greens' religious liberties from those of Hobby Lobby to make those rights "simply vanish."

"Hobby Lobby's latest brief brings into even sharper focus the issue at the heart of this landmark case: No one

should be forced to give up their constitutionally protected civil rights just to go into business," Kyle Duncan, general counsel for the Becket Fund, said in a statement.

"The filing demonstrates in no uncertain terms that the government's efforts to strip this family business of its religious rights represent a gross violation of the Religious Freedom Restoration Act and the First Amendment," he said. "We are hopeful that the Supreme Court will uphold the 10th Circuit's strong affirmation of the Greens' rights to live out their deeply held beliefs in every aspect of their business."

In a June 2013 ruling, the U.S. Court of Appeals for the 10th Circuit found merit in Hobby Lobby's challenge of the mandate.

[Jennifer Brinker is a staff writer for the *St. Louis Review*, newspaper of the archdiocese of St. Louis.]

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