

# Judge sides with anti-abortion group in birth control case

August 31 2015, by Eric Tucker

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A federal judge on Monday sided with an anti-abortion group in its challenge of a key birth control provision of the Obama administration's health care overhaul.

The decision from U.S. District Judge Richard Leon adds to the legal debate surrounding the law's requirement that contraceptives be included among a range of cost-free, preventive benefits.

March for Life sued the Obama administration last year over the provision, known as the contraceptive mandate. The organization called the requirement unconstitutional because it granted an exemption to religious institutions, such as churches and synagogues, but did not extend the same carve-out for nonreligious groups such as March for Life.

In a 29-page ruling Monday, Leon agreed with that reasoning, saying the mandate violates the constitutional requirement of equal protection under the law.

March for Life closely resembles religious groups in that its employees do not wish to use birth control, Leon wrote, but the Department of Health and Human Services had nonetheless chosen to "accommodate this moral philosophy only when it is overtly tied to religious values."

"HHS provides no principled basis, other than the semantics of religious tolerance, for its distinction," Leon wrote. "If the purpose of the

religious employer exemption is, as HHS states, to respect the anti-abortion tenets of an employment relationship, then it makes no rational sense—indeed, no sense whatsoever—to deny March (for) Life that same respect."

Alliance Defending Freedom, whose lawyers represented March for Life, said Leon's decision was the first to side with an organization that opposed the contraceptive mandate on moral rather than religious grounds.

"Pro-life organizations should not be forced into betraying the very values they were established to advance," ADF's senior legal counsel Matt Bowman said in a statement. "This is especially true of March for Life, which was founded to uphold life, not to assist in taking it.

Lawsuits over the contraceptive mandate are part of the lengthy political and legal battle over the health-care law that President Barack Obama signed in 2010.

There have been about 100 lawsuits from businesses and religiously affiliated colleges, hospitals and other not-for-profit organizations challenging the law's requirement that contraceptives for women be included among a range of cost-free, preventive benefits.

Other religiously affiliated groups also do not have to comply, but have to tell the government they object. That requirement is at the heart of lawsuits over the contraceptive mandate.

Federal appeals courts have so far ruled that informing the government of a religious objection does not interfere with the groups' religious rights. Several appeals already are pending at the Supreme Court.

In 2014, the Supreme Court ruled in favor of family-controlled

businesses with a religious objection to paying for some or all of the approved contraceptives. Their employees could still receive the birth control, but through an arrangement with the businesses' insurers or third-party insurance administrators. The government covers the cost of the contraceptives in those circumstances.

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