

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

)	
STATE OF ALABAMA, et al.,)	
<i>Plaintiffs-Intervenors,</i>)	
)	
ETERNAL WORD TELEVISION)	
NETWORK, INC.)	
<i>Plaintiff,</i>)	2:12-cv-00501-SLB
)	
v.)	
)	
KATHLEEN SEBELIUS, et al.)	
<i>Defendants.</i>)	
)	

**INTERVENORS’ NOTICE OF RECENT FACTUAL AND LEGAL
DEVELOPMENTS IN ALABAMA**

The State of Alabama and Attorney General’s Motion to Intervene (Docs. 14 & 15) was filed almost one year ago. In the motion, their brief in support, and their supplemental filings, the State and Attorney General recounted the State’s efforts to establish a state-run health insurance exchange and explained how Alabama regulates health insurance products.

This filing updates the State’s previous submissions by informing the Court of two recent developments. First, the Governor of Alabama has determined that the State of Alabama will not be establishing a state-run health insurance exchange under the auspices of “Obamacare.” See Letter from Governor Robert Bentley to

Secretary Kathleen Sebelius (Nov. 16, 2012) (**Exhibit A**). Second, in November 2012, the people of Alabama voted to adopt an amendment to the Alabama Constitution to prohibit any person or employer from being compelled to participate in a health care system. *See* Alabama Secretary of State, Canvas of Election Results 2012, Amendment 6.¹ The amendment provides in relevant part: “In order to preserve the freedom of all residents of Alabama to provide for their own health care, a law or rule shall not compel, directly or indirectly, any person, employer, or health care provider to participate in any health care system.” *See* House Bill 60 (**Exhibit B**).

The State’s intervention in this lawsuit remains justified in light of these developments. The State continues to “ha[ve] a sovereign prerogative to regulate its insurance market . . . in accordance with its own law and policy, without being contradicted by unlawful federal regulations.” Doc. 31 (Reply in Support of Motion to Intervene) at 6. The State of Alabama imposes the second *least* number of health insurance mandates of any State and has chosen not to impose a contraception mandate on otherwise heavily-regulated insurance plans. *See* Doc. 43 (Intervenors’ Supplemental Authority). The Alabama Legislature’s aversion to mandates is a conscious, deliberate choice; and the people of Alabama have made that aversion a part of Alabama’s fundamental law by enacting Amendment 6. The

¹ <http://www.sos.state.al.us/downloads/election/2012/general/2012GeneralResults-AllStateAndFederalOfficesAndAmendments-WithWrite-inAppendix.pdf>.

federal contraception mandate—if upheld as lawful—would displace Alabama’s regulatory choice and strike a new and different balance.

For these reasons and the other unrelated arguments addressed in the State and Attorney General’s filings, *see* Doc. 15 at 15-18 (addressing permissive intervention), the State and Attorney General’s motion to intervene should be granted.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on February 5, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

Respectfully submitted,

s/ Andrew L. Brasher

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