IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI

RANDY REED AUTOMOTIVE, INC.;	)	
	)	
RANDY REED BUICK GMC, INC.;	)	
	)	
RANDY REED CHEVROLET, LLC;	)	
	)	
RANDY REED NISSAN, LLC; and	)	
	)	
RANDY REED, individually,	)	
	)	
Plaintiffs;	)	
	)	
vs.	)	Case No.
	)	Division:
	)	
KATHLEEN SEBELIUS, *in her official capacity as Secretary of the United States Department of Health and Human Services*;	)	
	)	
THOMAS PEREZ, *in her official capacity as Secretary of the United States Department of Labor*;	)	
	)	
JACOB LEW, *in his official capacity as Secretary of the United States Department of the Treasury*;	)	
	)	
UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES;	)	
	)	
UNITED STATES DEPARTMENT OF LABOR; *and*	)	
	)	
UNITED STATES DEPARTMENT OF THE TREASURY;	)	
	)	
Defendants.	)	

VERIFIED COMPLAINT

Plaintiffs Randy Reed Automotive, Inc.; Randy Reed Buick GMC, Inc.; Randy Reed Chevrolet, LLC; Randy Reed Nissan, LLC; and Randy Reed, individually (collectively "Plaintiffs") by and through counsel, state as follows:

INTRODUCTION

1. Plaintiffs have a deeply held religious belief that life begins at conception/fertilization. Therefore, for many years, they have instructed their insurance carrier not to include coverage for the voluntary termination of pregnancies in the company's health insurance plan for employees. The Plaintiffs understood this to prohibit coverage of abortion-inducing drugs that prevent implantation of an embryo. The Patient Protection and Affordable Care Act ("ACA"), however, requires that in its health care plan for employees Plaintiffs include coverage for items that induce early abortions by preventing the implantation of an embryo after conception/fertilization.

2. The ACA authorized Defendants the Department of Heather and Human Services ("HHS") and its Secretary to develop a mandate that includes early abortion-inducing items under the category of preventive services for women ("Mandate")[1]. The mandate is enforced by Defendants the Departments of HHS, Labor and Treasury and their respective Secretaries.

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[1] The Mandate consists of a conglomerate of authorities, including: "Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services Under the Patient Protection and Affordable Care Act," 77 Fed. Reg. 8725–30 (Feb. 15, 2012); the prior interim final rule found at 76 Fed. Reg. 46621–26 (Aug. 3, 2011) which the Feb. 15 rule adopted "without change"; the guidelines by Defendant HHS's Health Resources and Services Administration (HRSA), http://www.hrsa.gov/womensguidelines/, mandating that health plans include no-cost-sharing coverage of "All Food and Drug Administration approved contraceptive methods, sterilization procedures, and patient education and counseling for all women with reproductive capacity" as part of required women's "preventive care"; regulations issued by

[Footnote continued on next page]

3. The Mandate illegally and unconstitutionally requires Plaintiffs to violate their religious beliefs by forcing them to provide abortion-inducing items, such as "Plan B" (the so-called "morning after pill"), Ella (the so-called "week after pill"), and inta-uterine devices ("IUDs"). The Mandate subjects the company to heavy fines and penalties if it chooses not to violate those beliefs. Defendants' coercion tramples on the freedom of conscience, freedom of religious exercise, and freedom of speech of Plaintiffs and their owners.

4. Plaintiffs seek declaratory and injunctive relief for the Defendants' violations of the Religious Freedom Restoration Act 42 U.S.C. § 2000bb *et seq*. (RFRA), the First and Fifth Amendments to the United States Constitution, and the Administrative Procedure Act, 5 U.S.C. § 500, *et seq.*, ("APA") via 5 U.S.C. § 700, *et seq.*, (allowing for judicial review of APA violations), by Defendants' actions in implementing the ACA in ways that coerce the Plaintiffs to engage in acts that they consider sinful and immoral in violation of their most deeply held religious beliefs.

5. Plaintiffs urgently need relief from this court. Absent an injunction issued forthwith, Plaintiffs will be forced to include abortion-inducing items in their health insurance plan in violation of their religious beliefs.

IDENTIFICATION OF PARTIES

[Footnote continued from previous page]

Defendants in 2010 directing HRSA to develop those guidelines, 75 Fed. Reg. 41726 (July 19, 2010); the statutory authority found in 42 U.S.C. § 300gg-13(a)(4) requiring unspecified preventive health services generally, to the extent Defendants have used it to mandate coverage to which Plaintiffs and other employers have religious objections; penalties existing throughout the United States Code for noncompliance with these requirements; and other provisions of ACA or its implementing regulations that affect exemptions or other aspects of the Mandate.

6. Plaintiff Randy Reed Automotive, Inc., a Missouri corporation (herein "Randy Reed"), has its principal place of business at 9550 NW Prairie View Rd., Kansas City, MO 64153.

7. Plaintiff Randy Reed Buick GMC, Inc., has its principal place of business at 9550 NW Prairie View Rd., Kansas City, MO 64153.

8. Plaintiff Randy Reed Chevrolet, LLC, has its principal place of business at 3921 Frederick Ave., St. Joseph, MO 64506.

9. Plaintiff Randy Reed Nissan, LLC, has its principal place of business at 9600 NW Prairie View Rd., Kansas City, MO 64153.

10. Plaintiff Randy Reed is principal shareholder and managing member of all named corporate and LLC entities.

11. By virtue of his ownership, directorship, and officer positions, Plaintiff Randy Reed is responsible for implementing Plaintiffs' compliance with Defendants' Mandate.

12. Defendants are appointed officials of the United States government and United States Executive Branch agencies responsible for issuing and enforcing the Mandate.

13. Defendant Kathleen Sebelius is the Secretary of the United States Department of HHS. In this capacity, she has responsibility for the operation and management of HHS. Sebelius is sued in her official capacity only.

14. Defendant HHS is an executive agency of the United States government and is responsible for the promulgation, administration and enforcement of the Mandate.

15. Defendant Thomas Perez is the Secretary of the United States Department of Labor. In this capacity, he has responsibility for the operation and management of the Department of Labor. Perez is sued in his official capacity only.

16. Defendant Department of Labor is an executive agency of the United States government and is responsible for the promulgation, administration, and enforcement of the Mandate.

17. Defendant Jacob Lew is the Secretary of the Department of the Treasury. In this capacity, he has responsibility for the operation and management of the Department. Lew is sued in his official capacity only.

18. Defendant Department of Treasury is an executive agency of the United States government and is responsible for the promulgation, administration, and enforcement of the Mandate.

JURISDICTION AND VENUE

19. This action arises under the Constitution and laws of the United States. The Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 & 1361, jurisdiction to render declaratory and injunctive relief under 28 U.S.C. §§ 2201 & 2202, 42 U.S.C. § 2000bb-1, 5 U.S.C. § 702, and Fed. R. Civ. P. 65, and to award reasonable attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, and 42 U.S.C. § 1988.

20. Venue lies in this district pursuant to 28 U.S.C. § 1391(e). The United States Defendants are located in this district.

FACTUAL ALLEGATIONS

21. Plaintiff Randy Reed is a practicing and believing Christian.

22. He strives to follow Christian ethical beliefs and religious and moral teachings throughout his life, including in his operation of his business entities, including the named Plaintiffs.

23. Plaintiff Randy Reed sincerely believes that his Christian faith does not allow him to violate the Bible's religious and moral teachings in his operating decisions regarding the Plaintiffs.

24. Plaintiff Randy Reed further believes that his operation of Plaintiff companies must be guided by ethical social principles and Christian religious and moral teachings, that individuals must operate their businesses according to the God-ordained ethics, religious and moral teachings of the Bible, and, that his faith prohibits him to sever his religious beliefs from his daily business practice, and that his Christian faith requires him to integrate the gifts of the spiritual life, the virtues, morals, and ethical social principles of Christian teaching into his life and work.

25. Plaintiff Randy Reed believes that the Bible teaches that abortifacient drugs, contraception and sterilization are intrinsic evils.

26. As a matter of religious faith the Plaintiffs believe that those Christian teachings are among the religious ethical teachings they must follow throughout their lives including in their business practice.

27. Consequently, Plaintiffs believe that it would be immoral and sinful for them to intentionally participate in, pay for, facilitate, or otherwise support abortifacient drugs, contraception, sterilization, and related education and counseling, as would be required by the Mandate, through their inclusion in the health benefits paid for by Plaintiffs.

28. Under Randy Reed's direction, the Plaintiffs contribute to charitable, religious, and educational organizations, including those that advance spiritual, moral and ethical teachings consistent with the Bible. Plaintiffs particularly support pro-life groups that uphold the Bible's

teachings concerning abortion. Plaintiffs have donated over $100,000.00 to charitable, pro-life causes since the formation of the first entity.

Plaintiffs' Health Insurance Plans

29. As part of fulfilling their organizational mission and Christian and charitable beliefs and commitments, Plaintiffs provide generous health insurance for their employees.

30. Plaintiffs have approximately 179 full-time employees.

31. Plaintiffs maintain three group plans through Coventry Insurance Group (hereinafter "Coventry") for their employees.

32. The plan year for Plaintiffs' plans begins on January 1 of each year, with the next plan year starting on January 1, 2014.

33. Consistent with Plaintiffs' religious commitments, Plaintiff Randy Reed, manager of all operations and primary shareholder, instructed his providers to exclude abortifacient drugs, contraception or sterilization; however, it appears that Coventry included those mandates in the plans in direct contradiction to Mr. Reed's beliefs and instructions.

34. To implement the plan for the year beginning January 1, 2014, Plaintiffs must make insurance coverage decisions and logistical arrangements on or by November 1, 2014.

35. Pursuant to their sincerely held religious beliefs, Plaintiffs believe that life begins at conception/fertilization and that any method that functions to prevent or disrupt implantation of a fertilized human embryo is morally wrong and results in the wrongful taking of a human life.

36. Pursuant to Plaintiffs' religious beliefs, they seek to carve out the offensive mandates from the plan upon renewal January 1, 2014, specifically, to exclude any means of "voluntary termination of pregnancy."

37. Pursuant to Plaintiffs' religious beliefs, they have consistently instructed its insurance carrier not to include services related to the voluntary termination of a pregnancy in the their health insurance plans, despite the fact that their insurance agent secured plans renewing January 1, 2013, that included such services.

38. In making this demand, Plaintiffs' intent was to ensure that, among other things, abortifacient items, such as Plan B, ella, and IUDs would not be covered.

39. Plaintiffs learned in July 2013 that the "voluntary termination of pregnancy" exclusion did not include certain abortifacient items because some insurance carriers include such items under the category of contraceptives, which Plaintiffs' plans generally covered. This led Plaintiff Randy Reed to look into his plans more carefully. Until that time, Plaintiffs were unaware that these abortifacient items were being covered by their plan and believed they were not. Mr. Reed then discovered that his original requests were not complied with, including the exclusion of other services for "voluntary termination of pregnancy."

40. Upon learning this information, Plaintiffs immediately voiced their religious objection to the inclusion of these abortion-inducing items in its plan and requested that they be removed from the plan forthwith.

41. Plaintiffs' insurance carrier responded by informing them that it, like all other insurance carriers, was required to comply with the Mandate and that Plaintiffs' plans, both now and continuing with the January 1, 2014, renewal, would therefore include the abortion-inducing items to which Plaintiffs religiously object.

42. Plaintiffs immediately explored its options to seek an injunction against enforcement of the Mandate, which other religious employers have successfully secured, before the start of its next plan year.

43. The need for injunctive relief to issue is immediate.

44. Absent an injunction, on January 1, 2014, Plaintiffs will be forced to continue to include abortion-inducing items in their health insurance plan in violation of their religious beliefs.

45. If Plaintiffs receive an injunction, they can obtain a plan that omits abortifacient items.

The ACA and Defendants' Mandate Thereunder

46. Under the ACA, employers with over 50 full-time employees are required to provide a certain minimum level of health insurance to their employees.

47. Many such plans must include "preventive services," which must be offered with no cost-sharing by the employee.

48. On February 10, 2012, the Department of Health and Human Services finalized a rule (previously referred to in this Complaint as "the Mandate") that imposes a definition of preventive services to include all FDA-approved "contraceptive" items, surgical sterilization, and education and counseling for such services.

49. This final rule was adopted without giving due weight to the tens of thousands of public comments submitted to HHS in opposition to the Mandate.

50. In the category of "FDA-approved contraceptives" included in the Mandate are several drugs or devices that may cause the demise of an already-conceived but not-yet-implanted human embryo, such as "emergency contraception" or "Plan B" drugs (the so-called "morning after" pill) as well as IUDs.

51. The FDA approved in this same "contraception" category a drug called "ella" (the so-called "week after" pill), which studies show can function to kill embryos even after they have implanted in the uterus, by a mechanism similar to the abortion drug RU-486.

52. The manufacturers of some such drugs, methods, and devices in the category of "FDA-approved contraceptive methods" indicate that they can function to cause the demise of an early human embryo.

53. The Defendants admit that Plan B, ella, and IUDs can function in part to cause the demise of the embryo after its fertilization and before its implantation.

54. The Mandate also requires applicable group health care plans to pay for the provision of counseling, education, and other information for all women beneficiaries who are capable of bearing children concerning and in support of covered devices and drugs, including Plan B, Ella, and IUDs that cause early abortions or harm to human embryos.

55. The Mandate applies to Plaintiff's January 1, 2013, to December 31, 2013 health insurance plan year.

56. An entity cannot escape the Mandate by self-insuring.

57. Absent relief from this Court, Plaintiffs are subject to the Mandate's requirement of coverage of the above-described items continuing with their January 1, 2014 plans.

58. Plaintiffs have a sincere and deeply-held religious objection to providing coverage for abortifacients and related education and counseling in their health insurance plans.

59. Plaintiffs cannot in good conscience violate their religious beliefs by providing coverage for emergency contraception, IUDs, or counseling or education in furtherance of the same, in their health insurance plans, both now and continuing with their January 1, 2014, plan year.

60. The Mandate therefore imminently threatens to impose its heavy penalties, fines, and lawsuits against Plaintiffs in violation of the beliefs and rights of Plaintiffs and their owners.

61. The Mandate makes little or no allowance for the religious freedom of entities and individuals, including Plaintiffs and their owners, who object to paying for or providing insurance coverage for such items.

62. An entity cannot freely avoid the Mandate by simply refusing to provide health insurance to its employees, because the ACA imposes monetary penalties on entities that would so refuse.

63. The exact magnitude of these penalties may vary according to the complicated provisions of the ACA, but the fine is approximately $2,000 per employee per year for employers.

64. In addition, if Plaintiffs dropped insurance for their employees, such an action would not only harm such employees, but it would harm Plaintiffs financially and it would harm their ability to retain and attract qualified employees.

65. The ACA also threatens monetary penalties against Plaintiffs for continuing to offer its insurance plan but continuing to omit abortifacients.

66. The exact magnitude of these penalties may vary according to the complicated provisions of the ACA, but the fine is approximately $100 per day per employee, with minimum amounts applying in different circumstances.

67. If Plaintiffs do not submit to the Mandate then they also trigger a range of enforcement mechanisms, including but not limited to civil actions by the Secretary of Labor or by plan participants and beneficiaries under ERISA, which would include but not be limited to

relief in the form of judicial orders mandating that Plaintiffs violate their and their owner's sincerely held religious beliefs by providing coverage for items to which they religiously object.

68. The lawsuit penalties that the Mandate triggers under ERISA are in no way speculative since Defendants Secretary Perez and the Department of Labor intend to fully and imminently enforce the Mandate against Plaintiffs.

69. The Mandate applies not only to employers, but also to issuers of insurance. Accordingly, Plaintiffs cannot avoid the Mandate by shopping for an insurance plan that accommodates their right of conscience, because Defendants have intentionally foreclosed that possibility.

70. The Mandate does not apply equally to all religious adherents or groups.

71. The Mandate offers the possibility of a narrow exemption to religious employers, but only if it "is a church, an integrated auxiliary of a church, a convention or association of churches, or is an exclusively religious activity of a religious order, under Internal Revenue Code 6033(a)(1) and (a)(3)(A)."

72. Plaintiffs does not qualify under this definition because it is not a church, integrated auxiliary of a particular church, convention or association of a church, or the exclusively religious activities of a religious order.

73. The ACA and the Mandate grant unbridled discretion to the government to create or modify this "religious employer" definition.

74. The ACA and the Mandate grant unbridled discretion to the government to give exemptions to some, all, or none of the organizations meeting the Mandate's four-part definition of "religious employers" or any future definition.

75. The Mandate picks and chooses among religions, religious believers and religious doctrines, including on the issue of what constitutes religion and religious exercise.

76. The Mandate is not neutral towards religion because it allows exemptions based on religious criteria, and it refuses those exemptions to Plaintiffs.

77. The Mandate fails to protect the statutory and constitutional conscience rights of religious Americans like Plaintiffs and its owners, even though those rights were repeatedly raised in public comments against the Mandate's regulations.

78. The Mandate requires that Plaintiffs provide coverage for abortifacient methods, and education and counseling related to the same, in violation of the religious beliefs of Plaintiffs and its owners, in a manner that is contrary to law.

79. The Mandate constitutes government-imposed coercion on Plaintiffs and their owners to change or violate their sincerely held religious beliefs.

80. The Mandate exposes Plaintiffs to draconian fines and other penalties for refusal to change or violate its and its owners' religious beliefs.

81. The Mandate will impose a burden on Plaintiffs employee recruitment and retention efforts by creating uncertainty as to whether or on what terms they will be able to continue offering health insurance due to the prospect of suffering penalties as a result of the Mandate.

82. The Mandate will have a profound and adverse effect on Plaintiffs and how they negotiate contracts and compensate employees.

83. Plaintiffs have already expended considerable time and expense determining the application of the Mandate against its religious beliefs and its options in relation thereto.

84. Unless relief issues from this Court, Plaintiffs are forced to take the Mandate into account now as it plans expenditures, including employee contracts, compensation and benefits packages, as well as potential government fines and lawsuits, for the January 1, 2014, plan year and into the future.

85. The ACA and the Mandate are not generally applicable because they provide for numerous exemptions from their rules.

86. For instance, the Mandate does not apply to members of a "recognized religious sect or division" that conscientiously objects to acceptance of public or private insurance funds. See 26 U.S.C. §§ 5000A(d)(2)(a)(i) and (ii). Plaintiffs do not meet this exemption.

87. In addition, as described above, the Mandate exempts certain churches and religious orders narrowly considered to be religious employers. Plaintiffs do not meet this exemption.

88. The Mandate also offers an "accommodation" to certain non-profit entities, which causes payments for the mandated items in ways that are different than the application of the Mandate to Plaintiffs, and in ways that Defendants claim do not require the non-profit entities to arrange, refer, contract or pay for the coverage. This "accommodation" is not available to Plaintiffs because they are not non-profit entities.

89. Furthermore, the ACA creates a system of individualized exemptions because under the ACA's authorization the federal government has granted discretionary compliance waivers to a variety of businesses for purely secular reasons.

90. Also, the ACA and its Mandate do not force employers having fewer than 50 full-time employees to provide a health insurance plan to its employees at all.

91. Defendants have also unilaterally suspended or delayed portions of the ACA such as certain employer reporting requirements. This demonstrates that Defendants have unfettered discretion to decide not to apply their rules in circumstances they consider appropriate, and that Defendants are content to allow some women to not receive the Mandated coverage from their employers. This delay does not benefit Plaintiffs, however, since they already offers generous health insurance and dropping that plan would be harmful both to Plaintiffs and to their employees.

92. Additionally, the Mandate does not apply to employers with preexisting plans that are "grandfathered."

93. Plaintiffs' plans are not grandfathered under ACA, nor will their plan year starting on January 1, 2014, have grandfathered status.

94. Plaintiffs' plans lacks grandfathered status because, *inter alia*, the facts described in the following few paragraphs deprive the plan of such status according to the Defendants' regulations governing grandfathered status.

95. Plaintiffs redesigned their plans with Coventry effective January 1, 2011, to reduce premiums and deductibles, therefore improving the benefits to their employees.

96. For example, Humana, the prior provider, requested a 9.4% increase in premiums on its *base* plan and a 10% increase on its *buy up* plan. The move to Aetna (now its Health Insurance subsidiary Coventry) resulted in a 8.23% decrease in premiums from the 2010 Humana rates. Additionally, deductibles were decreased from $1500.00 to $1000.00, with maximum out-of-pocket from $3500.00 to $3000.00 for individual coverage.

97. Due to the January 1, 2011, changes stated above, all the Plaintiffs offered health insurance plans lack grandfathered status, despite the fact that benefits to employees have improved and not diminished.

98. Neither Plaintiffs nor their plan administrator provided a disclosure to plan participants that the plans possessed grandfathered status under ACA (because the plans do not possess such status).

99. According to the government's statistics, tens of millions of American women in 2013 will be covered under plans where, because they possess grandfathered status, the ACA and Defendants do not subject those plans to the requirements of the Mandate.

100. Despite Defendants' and the ACA's choice not to impose the Mandate and its required items on tens of millions of American women in grandfathered plans, Defendants refuse to allow Plaintiffs' plans with fewer than 300 employees to be exempt from the Mandate.

101. On February 10, 2012, a document was issued from the Center for Consumer Information and Insurance Oversight (CCIIO), Centers for Medicare & Medicaid Services (CMS), of HHS, entitled "Guidance on the Temporary Enforcement Safe Harbor for Certain Employers, Group Health Plans and Group Health Insurance Issuers with Respect to the Requirement to Cover Contraceptive Services Without Cost Sharing Under Section 2713 of the Public Health Service Act, Section 715(a)(1) of the Employee Retirement Income Security Act, and Section 9815(a)(1) of the Internal Revenue Code."

102. Under this "Guidance," an organization that truthfully declares "I certify that the organization is organized and operated as a non-profit entity; and that, at any point from February 10, 2012 onward, contraceptive coverage has not been provided by the plan, consistent with any applicable State law, because of the religious beliefs of the organization," and that

provides a specified notice to plan participants, will not "be subject to any enforcement action by the Departments for failing to cover recommended contraceptive services without cost sharing in non-exempted, non-grandfathered group health plans established or maintained by an organization, including a group or association of employers within the meaning of section 3(5) of ERISA, (and any group health insurance coverage provided in connection with such plans)," until "the first plan year that begins on or after August 1, 2013."

103. The February 10, 2012 "safe harbor" was recently extended so that it encompasses plans beginning before January 1, 2014.

104. The February 10, 2012 "Guidance" and its recent extension categorically disqualifies Plaintiffs from making use of this "extra year and a half" because, among other reasons, they are not non-profit entities and further because they object only to the provision of abortifacient contraceptives.

105. On August 15, 2012, in response to litigation against the Mandate that illustrated the February 10, 2012 press conference "Guidance" was sloppily drafted and omitted a variety of organizations, Defendants used their unfettered discretion over the Mandate to issue yet another version of the "safe harbor" Guidance.

106. Under the August 15, 2012 "Guidance," employers who object to some but not all contraception could be covered, but the "safe harbor" was still limited to non-profit entities.

107. Thus the August 15, 2012 "Guidance" also continues to categorically disqualify Plaintiffs from making use of this "extra year" because, among other reasons, they are not non-profit entities.

108. Through their "safe harbor" Guidances, Defendants have essentially granted what they consider to be the equivalent of preliminary injunctions to potentially hundreds or thousands of non-profit corporate entities that possess exactly the same objection that Plaintiffs possess.

109. If Plaintiffs qualified for the "safe harbor," Defendants would not enforce the Mandate against Plaintiffs until the beginning of its January 1, 2014, plan year.

110. The ACA and the Mandate confer unfettered discretion upon Defendants to create and modify rules such as the Guidances with respect to their categorization and treatment of religious entities.

111. The Mandate, Defendants' "Guidances," their multiple federal regulations on this Mandate, and their four-part "religious employer" definition in its various changing forms, all omit Plaintiffs from any protection from the Mandate, despite Plaintiffs and their owners desire to operate Plaintiffs according to their sincerely held religious beliefs.

112. Therefore, while President Obama's and Defendants' ever-changing "compromises" purport to accommodate the religious beliefs of a variety of groups, none of these measures will stop the Mandate from being imposed on Plaintiffs January 1, 2014, plan year.

113. Any alleged interest Defendants have in providing free FDA-approved abortifacient contraception and related education and counseling without cost-sharing could be advanced through other, more narrowly-tailored mechanisms that do not burden the religious beliefs of Plaintiffs and its owners and do not require them to provide or facilitate coverage of such items through Plaintiffs' health plan.

114. The federal government provides massive coverages and subsidies of contraception for women who cannot afford it, without forcing their employers to participate.

115. Unless relief issues from this Court, the Mandate directly and imminently threatens Plaintiffs with its draconian penalties.

116. Without injunctive and declaratory relief as requested herein, including preliminary injunctive relief, Plaintiffs and its owners are suffering and will continue to suffer irreparable harm.

117. Plaintiffs and its owners have no adequate remedy at law.

FIRST CLAIM FOR RELIEF
Violation of the Religious Freedom Restoration Act
42 U.S.C. § 2000bb

118. Plaintiffs reallege all matters set forth in paragraphs 1–117 and incorporates them herein by reference.

119. Plaintiffs' and their owners' sincerely held religious beliefs prohibit them from providing coverage for abortifacients, including "emergency contraception" and IUDs and related education and counseling, in Plaintiffs' employee health plans.

120. When Plaintiffs and their owners comply with their sincerely held biblical principles and Christian beliefs on abortifacients such as emergency contraception and IUDs, they exercise religion within the meaning of the Religious Freedom Restoration Act.

121. The Mandate imposes a substantial burden on Plaintiffs and their owners' religious exercise and coerces them to change or violate their sincerely held religious beliefs, or be subject to penalties and harm to their property and livelihood.

122. The Mandate chills Plaintiffs and their owners' religious exercise within the meaning of RFRA.

123. The Mandate exposes Plaintiffs to lawsuits, substantial fines, and financial burdens, and pressures Plaintiffs and their owners by threatening their property and livelihood based on their religious exercise.

124. The Mandate exposes Plaintiffs to substantial competitive disadvantages because of uncertainties about Plaintiffs' health insurance benefits caused by the Mandate.

125. The Mandate furthers no compelling governmental interest and is not narrowly tailored to any compelling governmental interest.

126. The Mandate is not the least restrictive means of furthering Defendants' stated interests.

127. The Mandate violates RFRA.

WHEREFORE, Plaintiffs pray for the relief set forth below.

SECOND CLAIM FOR RELIEF
Violation of Free Exercise Clause of the First Amendment to the United States Constitution

128. Plaintiffs reallege all matters set forth in paragraphs 1–117 and incorporates them herein by reference.

129. Plaintiffs' and their owners' sincerely held religious beliefs prohibit them from providing coverage for abortifacients, including "emergency contraception" and IUDs and related education and counseling, in Plaintiffs' employee health plans.

130. When Plaintiffs and their owners comply with their sincerely held biblical principles and Christian beliefs on abortifacients such as emergency contraception and IUDs, they exercise religion pursuant to the Free Exercise Clause.

131. The Mandate is not neutral and is not generally applicable.

132. Defendants have created categorical exemptions and individualized exemptions to the Mandate.

133. The Mandate furthers no compelling governmental interest.

134. Defendants have conceded the lack of a compelling interest in the Mandate by virtue of their and ACA's voluntary exclusion and exemption of millions of Americans from the Mandate's coverage.

135. The Mandate is not the least restrictive means of furthering Defendants' purported interests.

136. The Mandate chills Plaintiffs' and their owners' religious exercise.

137. The Mandate exposes Plaintiffs to lawsuits, substantial fines, and financial burdens, and pressures Plaintiffs and their owners by threatening their property and livelihood based on their religious exercise.

138. The Mandate exposes Plaintiffs to substantial competitive disadvantages because of uncertainties about Plaintiffs' health insurance benefits caused by the Mandate.

139. The Mandate imposes a substantial burden on Plaintiffs' and their owners' religious exercise and coerces them to change or violate their sincerely held religious beliefs, or be subject to penalties and harm to their property and livelihood.

140. The Mandate is not narrowly tailored to any compelling governmental interest.

141. By design, Defendants framed the Mandate to apply to some religious Americans but not to others, resulting in discrimination among religions.

142. Defendants have created exemptions to the Mandate for some religious believers but not others based on characteristics of their beliefs and their religious exercise.

143. Defendants designed the Mandate, the religious employer exemption thereto, and the "compromise" and guidance allowances thereto, in a way that makes it impossible for Plaintiffs and other similar religious Americans to comply with their sincerely held religious beliefs.

144. Defendants promulgated both the Mandate and the religious exemption/allowances with the purpose and intent to suppress the religious exercise of Plaintiffs and its owners and other religious Americans.

145. The Mandate violates Plaintiffs' and their owners' rights secured to them by the Free Exercise Clause of the First Amendment of the United States Constitution.

WHEREFORE, Plaintiffs pray for the relief set forth below.

THIRD CLAIM FOR RELIEF
Violation of the Establishment Clause of the First Amendment to the United States Constitution

146. Plaintiffs reallege all matters set forth in paragraphs 1–117 and incorporates them herein by reference.

147. The First Amendment's Establishment Clause prohibits the establishment of any religion and/or excessive government entanglement with religion.

148. The Mandate discriminates among religions and among denominations, favoring some over others, and exhibits hostility to religious beliefs.

149. The Mandate discriminates against and among religions in refusing to accommodate or exempt a company that follows religious beliefs, while exempting or accommodating others.

150. The Mandate violates Plaintiffs' and its owners' rights secured to them by the Establishment Clause of the First Amendment of the United States Constitution.

WHEREFORE, Plaintiffs pray for the relief set forth below.

FOURTH CLAIM FOR RELIEF
Violation of the Free Speech Clause of the First Amendment to the United States Constitution

151. Plaintiffs reallege all matters set forth in paragraphs 1–117 and incorporates them herein by reference.

152. Defendants' requirement of provision of insurance coverage for education and counseling regarding abortifacient drugs and devices such as "emergency contraception" and IUDs forces Plaintiffs and their owners to speak and fund speech in a manner contrary to their religious beliefs.

153. Defendants have no narrowly tailored compelling interest to justify this compelled speech.

154. The Mandate violates Plaintiffs' and their owners' rights secured to them by the Free Speech Clause of the First Amendment of the United States Constitution.

WHEREFORE, Plaintiffs pray for the relief set forth below.

FIFTH CLAIM FOR RELIEF
Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution

155. Plaintiffs reallege all matters set forth in paragraphs 1–117 and incorporates them herein by reference.

156. Because the Mandate sweepingly infringes upon religious exercise and speech rights that are constitutionally protected, it is unconstitutionally vague and overbroad in violation of the due process rights of Plaintiffs and its owners and other parties not before the Court.

157. This Mandate lends itself to discriminatory enforcement by government officials in an arbitrary and capricious manner.

158. The ACA and the Mandate vest Defendants with unbridled discretion in deciding whether to allow exemptions to some, all, or no organizations, in crafting "religious employer" exemptions and changing the same, in crafting and modifying further "accommodations" and additional definitions of entities that qualify for the same, and in enforcing the Mandate and crafting rules regarding the same such as through its repeatedly issued enforcement "Guidances."

159. The Mandate is an unconstitutional violation of Plaintiffs' and their owners' due process rights under the Fifth Amendment to the United States Constitution.

WHEREFORE, Plaintiffs pray for the relief set forth below.

SIXTH CLAIM FOR RELIEF
Violation of the Administrative Procedure Act

160. Plaintiffs reallege all matters set forth in paragraphs 1–117 and incorporates them herein by reference.

161. As set forth above, the Mandate violates RFRA and the First and Fifth Amendments to the U.S. Constitution.

162. The Mandate is also contrary to the provisions of the ACA which states that "nothing in this title"—i.e., title I of the Act, which includes the provision dealing with "preventive services"—"shall be construed to require a qualified health plan to provide coverage of [abortion] services . . . as part of its essential health benefits for any plan year." Section 1303(b)(1)(A). Some items included as "FDA-approved contraceptives" under the Mandate cause abortions by causing the demise of human embryos before and/or after implantation. By Executive Order, this provision prohibits Defendants from requiring abortion in Trijicon's plan.

163. The Mandate is also contrary to the provisions of the Weldon Amendment of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act of 2009, Public Law 110 329, Div. A, Sec. 101, 122 Stat. 3574, 3575 (Sept. 30, 2008), which provides that

"[n]one of the funds made available in this Act [making appropriations for Defendants Department of Labor and Health and Human Services] may be made available to a Federal agency or program . . . if such agency, program, or government subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions."

164. The Mandate also violates the provisions of the Church Amendment, 42 U.S.C. § 300a-7(d), which provides that "No individual shall be required to perform or assist in the performance of any part of a health service program or research activity funded in whole or in part under a program administered by the Secretary of Health and Human Services if his performance or assistance in the performance of such part of such program or activity would be contrary to his religious beliefs or moral convictions."

165. The Mandate is contrary to existing law and is in violation of the APA under 5 U.S.C. § 706(2)(A)f.

WHEREFORE, Plaintiffs pray for the relief set forth below.

PRAYER FOR RELIEF

Plaintiffs respectfully requests the following relief:

A. That this Court enter a judgment declaring the Mandate and its application to Plaintiffs and their insurer, and others similarly situated but not before the Court, to be an unconstitutional and illegal violation of Plaintiffs', its owners', and others' rights protected by RFRA, the Free Exercise, Establishment, and Free Speech Clauses of the First Amendment to the United States Constitution, the Due Process Clause of the Fifth Amendment to the United States Constitution, and the Administrative Procedure Act, and therefore invalid in any way applicable to them;

B. That this Court enter a preliminary and a permanent injunction and declaratory relief prohibiting the Mandate from being applied to or considered applicable to Plaintiffs and their plans and others similarly situated but not before the Court in a way that substantially burdens the religious beliefs of Plaintiffs and their owners, or any person, in violation of RFRA and the Constitution, and prohibiting Defendants from continuing to illegally discriminate against Plaintiffs and others not before the Court by requiring them to provide or cause to be provided health insurance coverage for abortifacients, contraception, sterilization and related education and counseling to employees of entities they own or operate;

C. That this Court award Plaintiffs court costs and reasonable attorney's fees, as provided by the Equal Access to Justice Act and RFRA (as provided in 42 U.S.C. § 1988);

D. That this Court grant such other and further relief as to which Plaintiffs may be entitled.

Plaintiffs demand a jury on all issues so triable.

Respectfully submitted this _____ day of _____, 2013.

***Attorneys for Plaintiffs*:**

s/ Kevin M. Smith

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JS 44 (Rev 09/10)

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI

CIVIL COVER SHEET

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Western District of Missouri.

The completed cover sheet must be saved as a pdf document and filed as an attachment to the Complaint or Notice of Removal.

Plaintiff(s):

First Listed Plaintiff:
Randy Reed Automotive, Inc. ;
County of Residence: Platte County

Additional Plaintiff(s):
Randy Reed Buick GMC, Inc. ;
Randy Reed Chevrolet, LLC ;
Randy Reed Nissan, LLC ;
Randy Reed ;

Defendant(s):

First Listed Defendant:
in her official capacity as Secretary of the United States Department of Health and Human Services Kathleen Sebelius ;
County of Residence: Outside This District

Additional Defendants(s):
in his official capacity as Secretary of the United States Department of Labor Thomas Perez ;
in his official capacity as Secretary of the United States Department of the Treasury Jacob Lew ;
United States Department of Health and Human Services ;
United States Department of Labor ;
United States Department of the Treasury ;

County Where Claim For Relief Arose: Platte County

Plaintiff's Attorney(s):

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Defendant's Attorney(s):

CHALLENGE TO THE CONSTITUTIONALITY OF A FEDERAL OR STATE STATUTE (SEE FRCP 5.1)

Basis of Jurisdiction: 2. U.S. Government Defendant

Citizenship of Principal Parties (Diversity Cases Only)

Plaintiff: N/A

Defendant: N/A

Origin: 1. Original Proceeding

Nature of Suit: 999 Micellaneous Case

Cause of Action: 42 U.S.C. § 300gg-13(a)(4); 42 U.S.C. § 2000bb et seq. (RFRA); First Amendment of the United States Constitution.

Requested in Complaint

Class Action: Not filed as a Class Action

Monetary Demand (in Thousands):

Jury Demand: Yes

Related Cases: Is NOT a refiling of a previously dismissed action

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Signature: Kevin M. Smith

Date: 10-8-2013

If any of this information is incorrect, please close this window and go back to the Civil Cover Sheet Input form to make the correction and generate the updated JS44. Once corrected, print this form, sign and date it, and submit it with your new civil action.