No. 20-946

IN THE SUPREME COURT OF THE UNITED STATES

ORIGINAL

John J. Dierlam
Petitioner
v.
Donald Trump, President, et. al.
Respondents

On Petition for Writ of Certiorari to the Fifth Circuit Court of Appeals

PETITION FOR WRIT OF CERTIORARI

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Issues Presented

This case originated in US District Court Southern District of Texas on 2/4/2016. Despite the government's admission at least in part to a violation of Constitutional Rights, on 6/14/2018 the Court finally and completely dismissed case 4:16-cv-307. It was appealed to the 5th Circuit, case 18-20440. The case was fully briefed on 3/12/2019. On 8/7/2019 the case was placed in abeyance in favor of *Texas v. United States,* case 19-10011 in the same court. I filed a Response Letter objecting to this action by the court. On 3/9/2020 in response to the government's 28(j) Letter, the court requested Supplemental Briefs. The government in their Brief requested yet another Stay. I filed for Certiorari and on 9/29/2020 the Supreme Court denied the petition. On 10/15/2020 the 5th Circuit Appeals Court did not rule on the merits but vacated the decision of the District Court and remanded for additional analysis of jurisdictional questions. The lower courts have unjustly delayed this case and will probably continue to do so. It is possible this case will become moot by a Supreme Court decision in the *California v. Texas No. 19-840* consolidated case before the issues in this case can be properly heard. I therefore request this case be granted Certiorari and set for hearing as soon as possible.

Issues presented to the Court for decision:

1)Do one or more Constitutional violations exist in the ACA? Subsidiary to this question and suggested by the Claims in the Complaint and subsequent papers are multiple violations which may require the court to decide such questions as:

a)Does the HHS Mandate violate one or more of the RFRA, the 1st amendment, or equal protection?

b)Do the religious Exemptions in the ACA violate RFRA, the 1st amendment, or due process?

c)Does the ACA violate freedom of association, privacy rights, equal protection, or due process?

2)Does the Constitutional violations of the ACA constitute a law which is so corrupt, "unreasonable" and "capricious" as to goals and implementation to make it unseverable?

3)Can the principle of the Consent of the Governed be restored to some degree by a declaration properly defining "direct tax" and "consent of the governed?"

Parties to the Proceedings

Petitioner who was Plaintiff-Appellant in the lower courts, is John J. Dierlam, citizen of Harris County, Texas, and the United States. The Respondents or Defendants-Apellees in the lower courts are DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES, in his official capacity as President of the United States; UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; ALEX M. AZAR, II, SECRETARY, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, in his official capacity as Secretary of the U.S, Department Health and Human Services; UNITED STATES DEPARTMENT OF TREASURY; STEVEN T. MNUCHIN, SECRETARY, U.S. DEPARTMENT OF TREASURY, in his official capacity as the Secretary of the U.S. Department the Treasury; UNITED STATES DEPARTMENT OF LABOR; R. ALEXANDER COSTA, SECRETARY, DEPARTMENT OF LABOR, in his official capacity as the Secretary of the U.S. Department of Labor The proceeding changed to the current occupants with the change in administration.

Directly Related Cases

John J. Dierlam v. Donald J. Trump et. al., US Southern District of Texas Houston Division, case no. 14:16-cv-307. Dismissed with prejudice on 6/14/2018.

John J. Dierlam v. Donald J. Trump et. al., 5th Circuit Appeals Court, case no. 18-20440. Vacated and Remanded to the Lower Court on 10/15/2020.

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On 10/13/2017 Judge Ellison referred the case to Magistrate Judge Palermo for a Report and Recommendation. In that report Judge Palermo recommended the case be completely dismissed with prejudice. See Appendix A. On 6/14/2018 case no. 14:16-cv-307 was finally and completely dismissed by Judge Ellison following the Magistrate Judge's recommendations. See Appendix B. Judge Ellison in his order referred to the hearing for his reasons. See Appendix C for the relevant excerpt from the transcript. On 10/15/2020 the 5th Circuit in case 18-20440 vacated the lower court decision and remanded the case to the lower court. See Appendix D for the decision.

Jurisdiction

This Court has jurisdiction under 28 U.S.C. §§ 1254(1). This petition has been filed primarily for two reasons. a)This case is approaching 5 years old, and has yet to have a fair hearing on the merits. The Lower Courts have delayed this case. The Appeals Court on 10/15/2020 determined a mootness analysis is required therefore it believes some aspect of the case is or will shortly become moot. The *California v. Texas No. 19-840* consolidated case in the Supreme Court can have this effect on most of the instant case only if the ACA is ruled unconstitutional and permanently invalidated. Therefore "serious, perhaps irreparable, consequence" can befall this case. See *Procter & Gamble Co. v. Kraft Foods Global, Inc., 549 F.3d 842 (Fed. Cir. 2008).* The reluctance of the Appeals court to make a decision as well as the placement of stays in favor of other cases is a strong indication the issues raised in this case are more properly decided by the Supreme Court. See Supreme Court Rule 10(c). b)This case preceded the Texas and California cases. It involves

substantive rights which should take precedence over the more procedural nature of the violation in the cases currently before the Supreme Court. (See Section II.) (See also Section IV for a related discourse.)

Applicable Law Involved

The appendix reproduces part of the Statutes: 5 U.S.C. § 706; 26 U.S.C. § 1402(g), § 5000A; 28 U.S.C. § 1254(1), § 1331, § 1340, § 1343, § 1346, § 1361, § 1367 , § 1391(e)(1)(C), § 2201, § 2202, § 2465, § 2674; 42 U.S.C. § 2000bb-1(a)(b), 18022(a), 18024, 18091(1), 18092; 45 CFR §147.130(a)(1). Also reproduced are Art. I, §9, cl. 4 and 26. Art. I §2, cl. 3 of the Constitution and the 1st ,4th ,5th , 9th, and 10th amendments of the Constitution.

Statement of the Case

On February 4, 2016, I, John J. Dierlam, initiated a suit due to the imposition of the Individual Mandate Penalty in 26 U.S.C. § 5000A. However, 45 CFR §147.130(a)(1) among others, the HHS Mandate, made effective in 2012, caused me to terminate my employer's health insurance in 2012. The Federal Court for the Southern District of Texas was the proper venue for the Original Complaint based upon 28 U.S.C. § 1331, § 1340, § 1343, § 1346, § 1367, and § 1391(e)(1)(C); it had the authority to provide the relief sought based upon 5 U.S.C. § 706, 28 U.S.C. § 1361, § 2201, § 2202, § 2465, § 2674, 42 U.S.C. § 2000bb-1.

In Claim I the agencies failed to comply with 42 U.S.C. § 18092 in the ACA. They failed to timely provide a required notice to the taxpayer, which if it could provide help identifying coverage compliant with my beliefs as the government indicates exists, this lawsuit could potentially have been avoided.

Claim II of the Complaint is a violation of the RFRA, 42 U.S.C. § 2000bb-1 (a), (b), by the imposition of the HHS Mandate. This regulation requires all health insurers to include certain contraceptive, abortion, sterilization, and related counseling services without additional payment from women in all policies as part of minimum essential coverage. This Mandate also violates the Establishment and Free Exercise clauses of the 1st amendment to the US Constitution in its formulation and implementation as contained in Claims III and IV.

Claim III also contains a claim the HHS Mandate violates the equal protection clause by its discrimination against men who can not receive the FDA approved contraceptive method cost free. Equal protection is also violated based upon religion.

Claim V concerns the two religious exemptions allowed by the ACA, 26 U.S.C. § 5000A(d)(2)(A) Religious Conscience Exemption and (B) Health Care Sharing Ministry, these violate the 1st amendment, RFRA, and due process. The ACA grants a 26 U.S.C. § 1402(g) exemption from the Individual Mandate Penalty to certain religions with an aversion to insurance benefits. 26 U.S.C. § 5000A(d)(2)(B) awards the same exemption from the Individual Mandate Penalty and reduced government intervention upon religions with a 501(3)c established before 1999.

Claim VI describes a violation of the freedom of association in the 1st amendment. A close analogy with the ACA can be found in *Janus v. AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES, COUNCIL 31, No. 16-1466 (U.S. June 27, 2018)*. Here also, minimum essential coverage coerce a confiscation of an individual's property for the purposes of the government and for

which I disagree without warrant or due process in disregard for private property rights.

Claim VII indicates that the ACA violates equal protection and due process, which finds support in capricious application and purposes other than those stated in the legislation. The number and partiality of the exemptions to the Individual Mandate Penalty render it irrational and capricious.

In the final claim, Claim VIII, I request Declaration of the term direct taxes so that the principle of the Consent of the Governed is preserved.

Severability analysis can be very simple. See Section III(D). The ACA is a law which was a sham from the beginning, since its basis was false and its aim was confiscatory and unequal, it must be removed in its entirety.

Reasons to Grant Petition for Writ of Certiorari

I – This case has been unjustly impeded by the Courts through multiple Stays and other actions. The Appeals Court determination that questions of jurisdiction require remand for further analysis only propagate the injustice.

This case has faced multiple stays. On 1/17/2017, it was stayed by the court on request from the government. I appealed the stay and and later filed Certiorari in an unsuccessful attempt to overturn the stay. After a final judgment by the District Court on 6/14/2018 and my appeal to the 5th Circuit on 7/2/2018 this case was placed in abeyance by that Court on 8/7/2019 in favor of the *Texas v. US, 945 F.3d 355 (5th Cir. 2019).* I filed an opposition to this action on 8/21/2020 indicating the instant case was fully briefed and involved substantive Law which should place it ahead of the *Texas* case.

On 3/9/2020 the 5th Circuit Court requested and later received Supplemental Briefs on the disposition of the case. In their supplemental letter Brief of 4/1/2020,

the government appeared to be requesting another stay. As the *California v. Texas consolidated case No. 19-840* was moving along in the Supreme Court the chance of mootness of this case was increasing, I therefore filed another Certiorari to the Supreme Court on 6/17/2020, which was later denied.

The 5th Circuit on 10/15/2020 reached a decision to vacate and remand. It appears the Court does find or anticipates some portion of the case to be moot, and the Complaint is deficient in stating technical requirements to comply with 28 U.S.C. § 1346(a)(1), 26 U.S.C. §§ 6532(a)(1) and 7422. It identifies these two jurisdictional areas which need more detail before a decision on the merits can be reached.

A – Jurisdiction as related to the Technical Requirements of 28 U.S.C. § 1346(a)(1), 26 U.S.C. §§ 6532(a)(1) and 7422 should not require remand as little is in controversy.

The Court and the government are in agreement the Complaint should be amended. As allowed by FRCP 15(b), I submit a proposed 2nd Amended Complaint as Appendix E, which should remedy the objections as to jurisdiction and compliance with 28 U.S.C. § 1346(a)(1), 26 U.S.C. §§ 6532(a)(1) and 7422 mentioned in the 5th Circuit Appeals Court ruling and by the government. I have only modified references from the First amended Complaint to the IRS claims for refund so as to bring them into compliance. I paid in full the Individual Mandate Penalty each year it was required, for a net total of $5626.22 This sum remains in dispute until it is returned to me. If Certiorari is issued, I will make a separate Motion to amend the Complaint.

On the other hand, if the Courts only intend amending the Complaint to act as an anchor to slow and prevent justice in this case, then I am willing to forego if

required consideration of a refund of all Individual Mandate Penalties following the 2014 tax year. The government did not mention any deficiency in their motion to Dismiss with this initial Individual Mandate Penalty. The time, effort, and legal costs I have expended thus far greatly exceed the remaining monies. I place far greater weight on the restoration of the Constitutional rights violated as described in the Complaint. The objections mentioned by the Court and the government should not apply to the initial 2014 tax year. The case was filed about 9 months after the initial claim form in compliance with 26 U.S.C. § 6532. The Magistrate Judge was able to understand from the language used in the first amended Complaint payment in FULL was made. From p.11 of the R&R the Judge states, "Plaintiff has paid in full the shared responsibility payment he owed under the ACA." Therefore, the objections raised by the government and Court should not apply to the 2014 tax year Individual Mandate Penalty.

B - Multiple reasons indicate the instant case is not moot nor will be unless the ACA or any similar Law can not be reinstituted. An analysis of mootness is superflous.

For a large number of reasons the instant case can not be considered to be moot. The case *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc., 528 U.S. 167, 189 (2000)* established some of the requirements for a case to be determined as moot.

> ...A case might become moot if subsequent events made it absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur. Id. (internal quotation marks and citations omitted)

1)Although the government often indicates the individual exemption to the HHS Mandate contained in the most recently revised final rules from 83 Fed. Reg. 57592 Nov. 15, 2018 which modify 45 CFR § 147.133 to provide an exemption to

individuals like myself sufficient to moot all claims; I do not agree. The exemption does not apply UNLESS one can identify a health insurance provider WILLING to provide a product free of the Mandate. I do not have a current health insurer, nor am I aware of one willing to meet my religious and other requirements. Therefore, this exemption does not apply to me. Therefore, I remain an "applicable individual" as defined in the ACA per 26 USC 5000A(d).

The HHS Mandate still exerts a pressure to violate my Religious Beliefs. It skews the market and makes it more difficult for me to find insurance at reasonable cost. The government shifts its argument between the ACA being a government program like Social Security and Medicare to a program administered by a private third party, whom is free to decide whether to offer plans which will meet my religious objections. The government should not be allowed to shift its argument between the ACA constituting a government program and a third party system when one or the other is to its advantage in a particular instant by the principal of Judicial Estoppel.

I am now very hesitant to accept health insurance because it may contain coverage which offends my beliefs or political views. I would now require any insurer to provide evidence or attest my money is not used in these areas, which is an additional impediment. As I will be hesitant to seek medical attention due to the possible crippling cost, I face increased danger to health, which the government has caused by the loss of a "generally available, non-trivial benefit" as recognized by previous courts.[1]

2)I do not want to be placed in a religious ghetto. The health care sharing

1 *Adkins v. Kaspar, 393 F.3d 559 (5th Cir. 2004).*

ministries are an inferior product from both the standpoints of coverage and moral objections. (See point 6 below) Different religions are not treated alike nor does this process allow for the development of new belief systems different from the ones established before 1999. (See III(D)(5) below.) It is clear based upon the voluminous litigation,[2] numerous religious exemptions require a major restructuring of the ACA or a declaration of the entire law as unconstitutional.[3]

3)The government should not regulate a business in such a way to interfere with my religious and other freedoms then use that business as a proxy to attack those freedoms thereby providing the government a shield behind which it may hide its purpose and complicity. If allowed to stand, none of our freedoms are safe and the Bill of Rights is worthless.

4)Through the agency of a false proxy the government infringes upon the freedom to contract thereby violating both equal protection and substantive due process. In a case, *Allgeyer v. Louisiana, 165 U.S. 578 (1897),* the court elaborated on the freedoms provided in the 14th amendment.

> The liberty mentioned in that amendment means not only the right of the citizen to be free from the mere physical restraint of his person, as by incarceration, but the term is deemed to embrace the right of the citizen to be free in the enjoyment of all his faculties; to be free to use them in all lawful ways; to live and work where he will; to earn his livelihood by any lawful calling; to pursue any livelihood or avocation, and for that purpose to enter into all contracts which may be proper, necessary and essential to his carrying out to a successful conclusion the purposes above mentioned. *Allgeyer v. Louisiana, 165 U.S. 578, 589 (1897).*

At this time, and through to the *Lochner v. New York, 198 U.S. 45, 45 (1905)*

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2 See https://www.becketlaw.org/research-central/hhs-info-central/hhs-case-database/ (last visited 1/1/2021) for at least a partial list of cases against the HHS Mandate.

3 See https://www.becketlaw.org/research-central/hhs-info-central/ (last visited 1/1/2021) for a graphical time line of the HHS Rule changes.

decision, courts held that the right to contract was a fundamental right in which government should least interfere. However, with the decision in *West Coast Hotel Co. v. Parrish, 300 U.S. 379 (1937)* the court began to move to protect the liberty of those who suffered from contracts which favored a more powerful party in the contract by allowing a federal minimum wage for women. Similarly, in *Nebbia v. New York, 291 U.S. 502, 54 S. Ct. 505, 78 L. Ed. 940 (1934)*, the Supreme Court delineated a more restrictive area in which a court may act to satisfy due process.

> If the laws passed are seen to have a reasonable relation to a proper legislative purpose, and are neither arbitrary nor discriminatory, the requirements of due process are satisfied, and judicial determination to that effect renders a court functus officio. *Nebbia v. New York, 291 U.S. 502, 537 S. Ct. (1934)*

In other words, "courts will use the traditional rational basis analysis where the laws or regulations are presumed valid, and thus will be upheld if they bear a rational relationship to the end sought."[4] The ACA can be shown to be irrational and capricious (See Section III(D) below) as well as discriminating against fundamental rights of citizens. The ACA violates the 1st, 4th, 5th, 9th, and 10th amendments, however this section (4) will deal primarily with violations of the 5th amendment as it deals with liberty of contract and associated property rights.

It should be pointed out, "...the freedom to contract was a prime component of the common law legal system upon which our country was founded, making the right 'deeply rooted in this Nation's history and tradition.'"[5] Courts have considered health insurance an "important benefit." (See *Hobby Lobby Stores, Inc. v. Sebelius, 723 F.3d 1114 (10th Cir. 2013).)* Therefore, one could reason the ability to contract

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4 Weber, David P. (2013) "Restricting the Freedom of Contract: A Fundamental Prohibition," Yale Human Rights and Development Journal: Vol. 16: Iss. 1, Article 2. p.88

5 Id. p.89

for these services is a fundamental right and should fall within the 5th amendment's protection. Therefore, government must have a compelling reason and a means narrowly tailored to achieve it's goal under strict scrutiny.[6]

The government's stated purpose for the ACA is to expand health care coverage and to lower cost.[7] See Section III(D). The means are definitely not narrowly tailored. In the cases previously cited, the government's justification to infringe upon the private contract rights of the parties was found compelling to protect the interests of the weaker party to the contract. Contrary to its stated purposes, it is the government with the ACA which has become the oppressor and dominant party dictating the terms of the contract upon the population to it's benefit and that of a small minority comprised of Democrat constituencies. Health Insurance contracts are often adhesion contracts in the sense they are, take it or leave it. A perfect vehicle for TYRANNY. Many protected classes can be formed by the situation described as the government does nothing to safeguard the constitutional rights of the end users. See Section III(D)(5).

Similarly, an equal protection violation can be seen in this infringement upon the freedom of contract in this vital area. The arguments above help to establish such a violation; however, to trigger strict scrutiny a suspect class or fundamental right must be involved as well as evidence of discriminatory intent.

> In *Arlington Heights v. Metropolitan Housing Corp., [280 429 U.S. 252 (1977).]* the Court elaborated on the factors of discriminatory intent and noted that it could be found from disparate impact, a pattern of discriminatory government behavior preceding the enactment of the law, the historical background of the enactment of the law especially as it relates to the racial animus, and the degree of departure from

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6 Id.

7 See https://www.healthcare.gov/glossary/affordable-care-act/ (last visited 1/2/2021)

> normal operations either procedurally or substantively. [281 Id. at 267.] When discussing impact, the courts are ultimately engaged in a searching examination that asks whether the allegedly unprotected classifications were used as false proxies for categories otherwise eligible for stricter scrutiny."9. Weber, David P. (2013) "Restricting the Freedom of Contract: A Fundamental Prohibition," Yale Human Rights and Development Journal: Vol. 16: Iss. 1, Article 2. p.92

Here, although there is no overt racial discrimination or animus visible in the ACA other protected classes are affected. First, the passage and negotiation of the ACA is a departure from prior procedure, which occurred mostly in secret to avoid public and opposition scrutiny. Much of the history is therefore unknown. See "A Legislative History of the Affordable Care Act: How Legislative Procedure Shapes Legislative History" John Cannan, LAW LIBRARY JOURNAL Vol. 105:2 [2013-7]. Disparate impact on several classes is visible in the legislation and regulations. The Left and the Democrat Party have a long history of animus to conservative, orthodox, religious groups. Statements by Karl Marx (For example, "Religion is the opiate of the people.")[8] and the actions of Communist governments amply demonstrate this fact. See section III(C), III(D), and the recent actions of the governor of New York in Supreme Court case no. 20A87 mentioned below.

The freedom of contract should include refusing a contract which the individual deems unacceptable as provided in 42 U.S.C. § 1981(b). I want a level playing field not unlike *Brown v. Board of Education, 347 U.S. 483, 74 S. Ct. 686, 98 L. Ed. 873 (1954)*. Although *Brown* involved constitutional violations based upon racial discrimination in education, I do not want my ability to negotiate or refuse a contract abridged by the government, which impacts my freedom of religion, speech, etc. I should be allowed on an EQUAL basis to find health coverage.

8 https://en.wikipedia.org/wiki/Opium_of_the_people (last visited 1/2/2021)

Limiting my choices to a)the ghetto of a "health care sharing ministry" which does not meet all my moral objections and is an inferior product to insurance coverage, b)going without health insurance with a potential for crippling costs even if the Individual Mandate Penalty remains at $0, or c)a probable hopeless, never ending search for affordable health insurance which complies with my moral objections and from a provider willing to certify such, is not a fair or reasonable choice. As formulated in the ACA, religious health care and health insurance are decidedly not equal. Disparate impact here exists based upon religion rather than race or alienage.[9] Strict scrutiny should apply.

5)Relief can be fashioned. Depending on the exact nature of the Court's findings as to which Claims are found valid many different forms of Relief can be fashioned as suggested in the Complaint. Court Jurisdiction can not be questioned on either the grounds of standing or even more specifically mootness as the ability of the Court to fashion relief to address the injury can be readily imagined.

6)Even if a health insurer meeting my requirements could be identified, all the injuries caused by the government would not find remedy. Among the issues which would not be properly repaired would be the skew in the market and the very real probability of additional expense in finding and maintaining a policy free of this mandate into the future. I am placed at a decided disadvantage relative to other citizens whose beliefs align with those of the government. As fundamental rights are involved strict scrutiny should also apply.

As mentioned previously, the ghetto of a few health care sharing ministries created by the ACA would still exist. Most if not all of these Ministries are

9 Arlington Heights v. Metropolitan Housing Corp., 280 429 U.S. 252 (1977).

Protestant. The protestant sects I am aware of, permit some of the FDA approved contraceptives where as Catholics do not. Many if not all of these ministries also limit the total dollar amount of care allowed for each participant as well as the number of health incidents for a particular reason each year. The ACA does not require any standard of care of the Health Care Sharing Ministries. Therefore, for these and other reasons health care bill sharing ministries are generally inferior to insurance coverage.

7)If Texas is completely successful in *California v. Texas No. 19-840* and the ACA is declared unconstitutional, the instant case is still not be moot since by simply raising the Individual Mandate Penalty above $0 could potentially resurrect the ACA. Alternately, another Law incorporating the same or even more onerous errors along the same lines could be passed. The court should still consider granting Certiorari as the court would still have jurisdiction. See also the very recent Supreme Court decision to temporarily enjoin the Governor of New York, case no. 20A87, *Roman Catholic Diocese of Brooklyn, New York v. Andrew M. Cuomo, Governor of New York.* The governor had the potential to change an order which was eased to once again increase the restrictions.

> It is clear that this matter is not moot. See *Federal Election Comm'n v. Wisconsin Right to Life, Inc., 551 U. S. 449, 462 (2007)*; F*riends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc., 528 U. S. 167, 189 (2000).* Id. p.6

Therefore, the 5th Circuit's remand to the lower court for a mootness determination is either superfluous or a self fulfilling prophesy.

C – Remanding the Case needlessly impedes Justice

The district court judge decided no violation existed and dismissed the entire

case with prejudice despite the concession by the government of a violation of RFRA. The judge did not state any reason other than agreement with the Magistrate Judge. (See Dkt.#74 & 75 filed 12/11/2017 and 12/22/2017 for my and the government's Response to the R&R respectively.) Vacating the entire lower court decision does lend credence the Appeals Court did find the ruling of dismissal overly hasty. Given the bias, ignoring of facts in the case, and the violation of rules and law by the lower court, I see little room for doubt the District court will find this entire case to lack the appropriate jurisdiction. It is also clear to me, the Judge and Magistrate Judge's actions were a response in defense of their belief system, which is in alignment with the government and party which passed the ACA, rather than pursuing and administering the Law, justice, and proper reason. Given the history of tremendous delay, which will likely continue, the chances some event will occur to make this case moot increase. Court precedents which indicate substantive rights should proceed procedural rights and cases in danger of mootness should take precedence seem to have been ignored. (See Section II)

The unconstitutional violations mentioned here would continue unabated with a Biden or other Democrat administration if not become substantially worse. In any case, I retain the three elements of standing required in *Lujan v. Defenders of Wildlife, 504 US 555 (1992)* and this case is not moot as long as the ACA, HHS Mandate, or any other similar law violates my religious, moral, or any guaranteed right exists or can possibly be reinstituted.

II - The instant case presents Issues concerning the ACA, which are of great Public Importance not found in other cases

The *California v. Texas No. 19-840* consolidated case before the Supreme Court

turns on what can be viewed as procedural law. As per the *Nat. Fedn. of Indep. Business v. Sebelius, 132 S. Ct. 2566, 2597 (2012)* decision of the Supreme Court, the ACA was saved under the taxing authority of Congress since it raised revenue. (See Section IV.) The Constitutional requirements at issue in *California v. Texas Supreme Court Case No. 19-840* are clearly procedures to ensure the protection of underlying substantive rights. No doubt exists the Constitution gives Congress the power to tax the people. A more important question, is whether the Individual Mandate Penalty is a tax allowed by the Constitution due to its many violations? However, this question is not the issue in the *California* case, the issue more succinctly put is, must revenue be raised on a continuous basis?

In the instant case the violation complained of originates in substantive law, specifically the 1st, 4th, 5th, 9th, and 10th amendments to the Constitution. Justice Black observed in his dissent in *Link v. Wabash R. Co., 370 U.S. 626, 82 S. Ct. 1386, 8 L. Ed. 2D 734 (1962) - Black dissenting*, the purpose "for which courts were created— that is, to try cases on their merits and render judgments in accordance with the substantial rights of the parties."

It is procedural Law which is intended to form a fence around substantive Law. (See *Clinton v. Jones, 520 U.S. 681, 117 S. Ct. 1636, 137 L. Ed. 2D 945 (1997))* The instant case addresses violations of unalienable rights held by the public, which are not addressed in the *California* case. A proper balance has not been shown. (See also *Landis v. North American Co., 299 U.S. 248, 254, 57 S. Ct. 163, 81 L. Ed. 153 (1936))* The delays of this case have been and will continue to be "immoderate in extent" and in contrast to promoting the "public welfare or convenience," can

greatly harm the substantive rights of myself and the public. Id.

III – In Support of this Petition Several Important arguments from this case are selectively presented.

In this section, I will only highlight some of the more important aspects of this case which distinguish it from other cases before this court and which will not receive consideration if this case is not accepted.

A – The HHS Mandate is based on Beliefs and Values of the Left, not Science. The fraudulent and deceptive basis of this mandate places it in violation of the 1st and 5th amendments as well as the Principal of Unjust Enrichment.

The HHS Mandate was created from the recommendations of an IOM panel, "Inst. of Med., Clinical Preventive Services for Women: Closing the Gaps 19-20,109 (2011)." This panel was improperly formed and provisioned. It claimed its recommendations were Science based however on p.66 of their report is the statement, "...evidence and expert judgment are inextricably linked,..." Id. This statement alone is sufficient to SEPARATE THE PANEL AND THEIR RECOMMENDATIONS FROM ANY BASIS IN SCIENCE. Many introductory texts explain and define the Scientific Method. If "expert judgment" is the "evidence" the method is short-circuited. Experiment is at the heart of the method, as it is a test of the hypothesis against the real world. Further, evidence exists the recommendations my harm women.[10] Any hypothesis which does not have confirmation through a valid application of the Scientific Method is no more than a Belief. Therefore, it is inescapable to conclude the HHS Mandate represents only the beliefs and values of Democrats and the Obama administration which in

10 See Brief of the Association of American Physicians & Surgeons et. al. Amicus Curiae, Zubik v. Burwell, 2016 WL 2842449 (U.S. May 16, 2016), Brief for the Breast Cancer Prevention Institute as Amicus Curiae, Zubik v. Burwell, 2016 WL2842449 (U.S. May 16, 2016), Brief of Michael J. New, PH.D., Amicus Curiae, Zubik v. Burwell, 2016 WL 2842449 (U.S. May 16, 2016), and Helen M. Alvare, No Compelling Interest: The 'Birth Control' Mandate & Religious Freedom,58 VILLANOVA L. REV. 379 (2013)

violation of the first amendment and RFRA are being forced upon the population to the detriment of all four classes created by the regulation.

The four classes are created based upon gender and religious objections to contraception, sterilization, abortion, and related counseling. (See Section III(C)) Voluntary cessation of a practice does not take from a court the ability to prevent future abuse.[11] The agencies have hereby been shown to have abused the "minimum essential coverage" provision of the ACA. The fraudulent addition and continued existence of abortion, contraception, sterilization, and related counseling in "preventative services" and "minimum essential coverage" is a serious and continuing abuse of power. Without severe judicial limits placed upon this power, I see nothing to prevent them from placing anything in "minimum essential coverage" thereby forcing the population to accept and pay for any benefit or injury to any group and call it health care. For instance drugs for executions or euthanasia, supplies for a death lottery, etc.

Aside from the constitutional violations including the "excessive government entanglement" and "political divisiveness" as evidenced by the long history of successful suits against the HHS mandate, the fraud and deception on the part of the government has allowed the acquisition and use of private property tangible and intangible.[12] The "Principle of Restitution" or "unjust enrichment" demands the government not be allowed to keep ill gotten gains and the parties be restored to their original state.

B – The ACA forms a "compelled association" directly analogous to *Janus*. This compelled association is designed to benefit the purposes of

11 City of Mesquite v. Aladdin's Castle, Inc., 455 U.S. 283, 289 (1982)

12 Lynch v. Donnelly, 465 U.S. 668, 673, 104 S.Ct. 1355, 79 L.Ed.2d 604 (1984) (O'CONNOR, J., concurring)

government. Congress is acting outside the authority of the Constitution in violation of the 5th amendment, Art. I Sec. 8, and unjust enrichment.

"Minimum essential coverage," the Individual Mandate Penalty, and especially the Individual Mandate work to form a "compelled association." A direct analogy exists between the union in *Janus* and private health insurance companies in the ACA. The Individual Mandate corresponds to the State law in *Janus* which required all government employees to be represented by a union, which is a private organization, for the supposed government purpose of collective bargaining if a majority of any division voted to join the union. Another state law in the *Janus* case forced all including nonunion members to pay a fee to the union. This law correlates to the fees paid to the Insurance companies for minimum essential coverage.

As the Individual Mandate Penalty is currently $0, per the *NFIB* decision the only legal option is association with an insurance company. Previously, even if one opted for this penalty, one would need to either forego an important benefit or pay the penalty AND the cost for perhaps illegal health insurance. A compelled association can not be justified since the government in Oct. of 2017 admitted to a violation of the religious freedom of individuals so to argue the ACA advances ONLY its compelling interests and the means it employs are the least onerous are clearly FALSE.

"Making a contribution, like joining a political party, serves to affiliate a person with a candidate." *Buckley v. Valeo, 424 U.S. 1, 96 S. Ct. 612, 46 L. Ed. 2D 659 (1976).* It is the government's political and religious goals to which the parties are forced to affiliate, which are not in alignment with the stated goals and thus

violating the freedom of speech and assembly. Government's legitimate role in a private contract is to prevent fraud and similar criminal violations among the parties, not to benefit itself. As the value of the contract has been decreased to the parties other than the government, the government has made a confiscation of property in violation of the 5th amendment without due process. The principle of unjust enrichment also applies.

C – The HHS Mandate violates equal protection. The HHS Mandate establishes beliefs of the Left as orthodox therefore it is in violation of the 1st amendment.

1 – A facial violation of equal protection based on gender and in effect based upon religion exists in the HHS Mandate.

In *Weinberger v. Wiesenfeld, 420 U.S. 636, 638 n.2 (1975)* the Court stated its treatment of equal protection claims were the same whether under the fourteenth or the fifth amendment. In *Reed v. Reed, 404 U.S. 71, 76-77 (1971)* the Court found that laws classifying individuals on the basis of sex may violate equal protection.[13] However, a court must first determine if the law creates a sex classification. See *Geduldig v. Aiello, 417 U.S. 484, 494-97 (1974)*. If not, the law will only be held to the rational basis standard, and so long as it is "rationally related to a legitimate government purpose," it will be upheld. *Hodel v. Indiana, 452 U.S. 314, 331-32 (1981).*[14] Otherwise, "intermediate scrutiny" will apply. Virginia, 518 U.S. at 531, 532-533 (1996). Under this standard the sex classification must "serve important governmental objectives" and be "substantially related to [the] achievement of those objectives." *Craig v. Boren, 429 U.S. 190, 197 (1976).*[15]

Courts have found that discrimination only occurs when a benefit which could

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13 Gabriel Ascher "Good for the Gander, Good for the Goose: Extending the Affordable Care Act Under Equal Protection Law to Cover Male Sterilization" 90 N.Y.U. L. Rev. 2029 2015 p.2038.
14 Id. p,2039
15 Id. p.2038

be provided to both sexes is only provided to one. If biological differences require different procedures or treatments then the law can acknowledge these without violating equal protection.[16] Under intermediate scrutiny, the law must substantially advance the government objective. However, courts have allowed laws establishing sex classifications in order to remedy discrimination. See *Miss. Univ. for Women v. Hogan, 458 U.S. 718, 728 (1982).*[17]

Even though the sterilization procedures are different between the sexes, it takes both sexes to conceive, the risk of unintended pregnancy occurs to both sexes simultaneously. This situation is closer to *Craig v. Boren* in which a classification based on sex did not advance the purpose of the law. The HHS Mandate is much more invidious. Not only is there no history of discrimination favoring male sterilization or against female sterilization,[18] but 10 to 20 women die every year from tubal ligation surgery compared to not a single recorded death due to a male vasectomy. Female sterilization is also more likely to fail than male sterilization. The cost of the procedure is many times more expensive for women than men and the cost of the complications which may develop are also much higher for women. Offering female sterilization free of charge and not male sterilization creates a perverse incentive which places the life and health of women at even greater risk, contrary to the stated purpose of the law.[19]

I disagree with the author of the article beginning on p.2066 concerning the extension and severability of sterilization coverage in the ACA. He makes a number of assumptions which are not correct. Furthermore, the case of *Chevron U.S.A.,*

16 Id. p.2041
17 Id. p.2046
18 Id. p.2058
19 Id. p.2034

Inc. v. Natural Res. Def. Council, Inc., 467 U.S. 837, 842-46 (1984) set the conduct of a court in determining issues of interpretation by the executive branch for statutes passed by the legislative. First, did Congress address the issue in the legislation. In this case, it has, based upon the quote from Senator Mikulski the intention of the provision was definitely not in accord with HHS et. al. interpretation.[20] The very name of the subsection, "Preventive Services Provision" in the ACA was more in line with a purpose to prevent DISEASE not to provide contraceptive and abortion services to women. Next, if Congress left some sort of gap, the court must decide, "whether the agency's answer is based on a permissible construction of the statute." Id. In the instant case, we do not reach this question. Even if it were to be addressed, the answer would be NO. Pregnancy is considered a normal condition not a disease only women are at risk of contracting and which some insurance plans legally do not cover. See *Gen. Elec. Co. v. Gilbert, 429 U.S. 125, 136 (1976).*

Sterilization is considered sinful and forbidden for Catholics. I do not want this coverage nor do I want to be forced to pay for such coverage for anyone. This coverage advances the belief system of the Left and therefore Democrats. It provides a financial benefit to an important Democrat constituency, unmarried women, while forcing mostly opposition constituencies to pay for it.[21]

2 – The Equal Protection and 1st amendment analysis are bolstered by

20 "Ms. MIKULSKI. Yes, that is correct. This amendment does not cover abortion. Abortion has never been defined as a preventive service. This amendment is strictly concerned with ensuring that women get the kind of preventive screenings and treatments they may need to prevent diseases particular to women such as breast cancer and cervical cancer . There is neither legislative intent nor legislative language that would cover abortion under this amendment , nor would abortion coverage be mandated in any way by the Secretary of Health and Human Services." Congressional Record-Senate, Dec. 3, 2009, p.S12274

21 https://brandongaille.com/26-key-democratic-party-demographics/ (last visited 12/29/2020)

evidence of hostility and discriminatory intent on the part of the government body.

Aside from what has been previously presented this section will help to show "discriminate intent" in the case of equal protection claims or lack of "neutrality" in the case of 1st amendment claims in regard to the HHS Mandate. Evidence for cases involving equal protection analysis and 1st amendment analysis are related.[22] Possible evidence includes the legislative or administrative history, as well as "contemporaneous statements made by members of the decision making body."[23]

a)The lone dissenter of the IOM panel indicated the panel majority was biased and he "view[ed] the evidence evaluation process as a fatal flaw of the Report."[24] In addition,

> Michael O'Dea, executive director of Christus Medicus Foundation, wrote to Sebelius, "It is clear that the Institute of Medicine has an agenda. Virtually all of the Women's Preventive Services committee members are affiliated in some way with Planned Parenthood." Further research by HLI America has substantiated O'Dea's concern, revealing that many of the committee members have strong relationships with both Planned Parenthood and NARAL Pro-Choice, and have actively supported pro-abortion candidates for public office.[25]

b)Although President Obama provided assurances to Bishop Dolan about November of 2011, religious freedom would be protected in the implementation of the ACA, two months later Obama rather abruptly told him he had until August to figure out how he was going to comply with the birth control mandate.[26]

c)A very likely reason for Obama's change to a confrontational and hostile stance in the previous point was later revealed in a wikileak email from John

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22 Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520, 540 (1993)
23 Id.
24 "Inst. of Med., Clinical Preventive Services for Women: Closing the Gaps 19-20,109 (2011)." p.208
25 https://www.thepublicdiscourse.com/2011/09/4031/ (last visited 1/2/2021)
26 https://freerepublic.com/focus/f-religion/2866637/posts (last visited 12/30/2020)

Podesta, the Clinton Presidential Campaign Chairman, dated 2/11/2012. In the email he admits to complicity in the creation of groups whose purpose was to subvert the Catholic Church specifically in the area of contraceptive coverage. Hostility toward the orthodox Catholic faith is evident in this email among the higher ranks of the Democrat Party.[27]

d)In October of 2011, Kathleen Sebelius, Secretary of HHS at that time, gave a speech at a NARAL luncheon where she announced that the Obama administration favored health insurance coverage of birth control without copays. She said, "We are in a war," with reference to a few pro-life demonstrators at the entrance to the event.[28]

D – The ACA is confiscatory, unreasonable and capricious. The Individual Mandate, Individual Mandate Penalty, and other provisions of the Law are not implemented or designed to further the stated goals. Therefore, the *Brushaber* and *Nebia* decisions would argue the law is unconstitutional and unseverable.

Brushaber v. Union Pac. R.R. Co., 24-25, 240 U.S. 1 (1916), indicates a 5th amendment due process violation could be applied to a tax which confiscated property. Also from *Nebbia v. New York, 291 U.S. 502, 54 S. Ct. 505, 78 L. Ed. 940 (1934)* "the law shall not be unreasonable, arbitrary or capricious, and that the means selected shall have a real and substantial relation to the object sought to be attained." Id p.525. Below are a few examples of violations:

1)Despite the government's contention that no private right of action or wavier of sovereign immunity exists in 42 U.S.C. § 18092, statutes such as 5 USC §702, 28 USC §§ 1346, 1340, 1331 and 2674 provide the Court jurisdiction and wavier of

27 https://wikileaks.org/podesta-emails/emailid/57579 and https://www.catholicvote.org/ongoing-updates-clinton-campaign-anti-catholic-wikileaks-scandal/ (last visited 12/30/2020)

28 https://www.creativeminorityreport.com/2011/10/sebelius-at-war-with-pro-lifers.html (last visited 12/30/2020)

sovereign immunity for taxes collected by the IRS long before the ACA existed. Either the agencies in callous disregard for the taxpayer and with gross incompetence and negligence failed to provide the required notice or, more likely they well understood the actual goal of the ACA was not as stated so any notice would be a waste of resources.

2)The government explains the reason for the passage of the ACA as a reaction, "to address a crisis in the national health care market, namely, the absence of affordable, universally available health coverage."[29] The adult non-elderly uninsured rate averaged a fairly steady 16.7%, std. dev. of 0.5, between 1995 to 2013, including a 1.4% increase in 2010 due to the recession. No crisis is evident. In 2015 only a 6% drop from this average occurred, which suggests a very significant number of people remain uninsured after the implementation of the ACA.[30] No evidence is presented by the government that extending health insurance coverage will result in better health in the population or lower cost.

3)If the expansion of health care coverage as stated in the ACA was such a compelling government objective, the fact the Individual Mandate Penalty is not used to provide the payers any sort of coverage contradicts the stated objective.

4)Before the Tax Cuts and Jobs Act of 2017, Pub. L. 115-97, a large number of exemptions could be obtained from the Individual Mandate Penalty. These exemptions were both under-inclusive and over-inclusive as to burdens, benefits, and harm. The ACA provided eight exemptions from the Individual Mandate Penalty

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29 *John J. Dierlam v. Donald J. Trump et. al., US Southern District of Texas Houston Division, case no. 14:16-cv-307.* DKT.#37 DEFENDANTS' MEMORANDUM IN SUPPORT OF THEIR MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT, p.6.

30 See http://kff.org/uninsured/fact-sheet/key-facts-about-the-uninsured-population/. (last visited 1/2/2021) As of Q1 2015, 13% did not have health coverage with half of these indicating cost was a factor.

while the Obama administration added fourteen others. It is estimated that 90% of the population qualifies for an exemption.[31] Similarly situated individuals were not treated the same. Many of these exemptions aid Democrat constituencies and have little correlation to the stated goals of the ACA.

5)The ACA allows only two religious exemptions to the Individual Mandate Penalty, 26 U.S.C. § 5000A(d)(2)(A) and (B). The ACA explicitly states the purchase or not of health insurance is commercial activity. However a §1402(g) exemption, which is religions who do not participate in Social Security and Medicare, have been previously denied to any who participates in commercial activity other than self employment. See *United States v. Lee, 455 U.S. 252, p260 (1982).* The government contends that the purchase of health insurance is not a requirement of the ACA and imposes the Individual Mandate Penalty on other religious objectors. For no apparent reason Congress advances religions with an aversion to insurance over those that do not have such an aversion in violation of the Establishment Clause.[32] The second exemption similarly is granted to bill sharing ministries who have a 501(3)(c) in existence since 1999. As pointed out by John Gruber, the purported architect of the ACA, these religious exemptions are contradictory to the purpose of the legislation.[33] Granting certain religions preference in contradiction to the purpose of the law which is also "not closely fitted" to the government's purpose should evoke strict scrutiny.[34] These exemptions violate the 1st amendment and demonstrate yet another fraud.

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31 See http://online.wsj.com/articles/fewer-uninsured-face-fines-as-health-laws-exemptions-swell-1407378602 (last visited 1/2/2021)
32 See Estate of Thorton v. Caldor, Inc., 472 US 703 (1985)
33 See https://www.cnbc.com/id/100935430 (last visited 1/2/2021)
34 *Larson v. Valente, 456 US 228 (1982)*

6)Congress does not have the power to create or destroy a "market," a term which the ACA itself uses in 42 U.S.C. § 18024. Article I § 8 authorizes Congress to "regulate commerce" not to create or destroy it, which is clearly the real intention of the ACA. Further, it coerces the citizen to join in that commerce by law and a potential exaction on those who do not join in violation of due process.

Regulation implies rules or restrictions upon EXISTING commerce. Judge Story on p.363 of his book Commentaries on the Constitution indicates it was argued a perpetual embargo is unconstitutional as it was not a regulation of commerce but an annihilation of it.[35] Judge Story on p.344 also makes the point in Art. I Sec. 8 the power to "lay and collect Taxes, Duties, Imposts, and Excises" is moderated by the next phrase in the Constitution. If the tax is not for the purpose of the payment of Debts, provide for the common defense, or the General Welfare, then the tax is unconstitutional. The Individual Mandate Penalty is just such a tax. If the government has the power to require the purchase of a product, then the basis for the protection of private property embodied in the 4th, 5th, and 9th amendments would be greatly eroded.

The foregoing are some specific points illustrating the actual intent, purpose, and effect of the ACA as corrupt, unconstitutional, unreasonable, capricious, and tyrannical. The inevitable conclusion is the ACA is a law which was a sham from the beginning. Since its basis was false and its aim was confiscatory and unequal, any regulation or provision which emanated from it must not be allowed to stand.

IV - The Root Cause for the abuses in the ACA can be traced to a removal of a check in the Constitution by the *Hylton* decision. A declaration of the

35 Joseph Story, Commentaries on the Constitution of the United States; Cambridge; Brown, Shattuck and Co.; 1833.

definition of "direct taxes" to be the most straight forward meaning of the words would go a long way to restoring the Principal of Consent of the Governed.

The Constitution embodies several general principles well understood by the framers and not detailed in the Constitution, but presumably understood by the people at the time. On p.157 of Commentaries on the Constitution, Justice Story writes referring to the Constitution, "The people make them; the people adopt them; the people must be supposed to read them, with the help of common sense..." Therefore, the plain meaning of the words should be used.

One of these general principles is often termed "consent of the governed." It is mentioned explicitly in the Declaration of Independence. One corollary of this general principle is that power flows from the people. The people by their vote for the Constitution formed the government and made it legitimate. Neither the Federal or the State legislatures have power to undue what the people have formed.[36]

Another corollary of this general principle involves taxation. It was reasoned that the authority to tax must also flow from the people. This idea is sometimes reflected in the phrases, "no taxation without representation." "That taxation ought to go hand in hand with representation had been a favourite theory of the American people..."[37] This grant of authority MUST be ongoing and subject to periodic elections. The Constitution does not explicitly define direct or indirect taxes. What the framers wrote can shed some light on meaning.

In Federalist 36, Hamilton indicates that only direct taxes are subject to "partiality" and "oppression." In Federalist 12, Hamilton believed government

36 Alexander Hamilton, Federalist 22
37 Supra 35, p.237

would for some time be dependent on taxes on land and "taxes invisible to the populace." One can infer based upon these statements, direct taxes are visible to the population and can be levied more heavily on minorities which are not in favor with the legislature. From context, Hamilton appears to regard "invisible" as meaning a tax very easily afforded by the population or, a tax collected in a manner the population was not aware as in the case of import duties. In speeches by Patrick Henry and George Mason given in 1788 regarded any tax collected by the Federal government from an individual as a "direct tax." They believed direct taxes should not be allowed to the Federal government due to a likelihood of oppression.[38] This latter definition of "direct tax" is the most reasonable, straight forward and plain meaning of the words.

In Federalist 54, Madison indicates in some of the States, wealth was given separate representation in some governing body. However, the Constitution as a practical matter made an approximation that wealth would be in proportion to population. Thereby, "personal rights" and wealth were BOTH to be given importance and representation in the House. Judge Story refers to the apportionment of direct taxes together with representatives as a "remedial check upon undue direct taxation..."[39] He further states,

> ...in every well-ordered commonwealth, persons, as well as property, should possess a just share of influence...By apportioning influence among each, vigilance, caution, and mutual checks are naturally introduced, and perpetuated.[40]

Judge Story appears to fully agree with the *Hylton v. United States, 3 U.S. 171,*

38 The Anti-Federalist Papers; ed. Bill Bailey. available at https://www.thefederalistpapers.org/wp-content/uploads/2012/11/The-Anti-Federalist-Papers-Special-Edition.pdf (last visited on 1/1/2021)
39 Supra 35, p.237
40 Supra 35, p.238

1 L. Ed 556, 1 L. Ed. 2D 556 (1796) decision in that poll and property taxes are the only direct taxes but, this conclusion completely contradicts the principles he articulated previously regarding the protection and representation of wealth.[41] Constricting the definition to these objects leaves much wealth unprotected and unrepresented.

What is important is not whether the tax is internal, external, direct, or indirect, it is the underlying principle of consent of the governed the procedural rules on apportionment are intended to protect. What may have been difficult for the framers is today with current technology fairly simple to accurately determine the dollar amount each citizen pays in ALL taxes to the federal purse.

Much of the predictions of the Federalists were wrong and those of the Anti-Federalists came to pass, albeit over a century later in many cases. Vital interests such as consent of the governed were protected by a couple phrases to the effect "direct taxes and representatives are to be apportioned..." Once destroyed, disenfranchised taxpayers were disproportionately burdened with no ability to restore the balance; much of the evil we see today was set in motion. If the Constitution were allowed to function as intended, the greater representation afforded to taxpayers shouldering a heavier burden would allow them to reverse and counterbalance the load. Instead, we descend deeper into debt, corruption, mob rule. and disunion.

The taxes from the ACA are neither exactly uniform nor apportioned to population, and even if they were, it would not provide the group bearing a heavier burden of taxation any increased representation as is required by "Consent of the

41 Supra 35, p.340

Governed." This court can help to remedy this situation for the future if it properly outlines the "consent of the governed" and defines "direct tax" consistent with what has been written here. See also Claim VIII of the complaint for more information.

Conclusion

For the reasons provided above, I request this Court exercise its power to issue a Writ of Certiorari. I also request this case be set for hearing and decision a expeditiously as possible to avoid any possibility of mootness as may occur with the *California v. Texas No. 19-840* consolidated case.

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Appendix