

**Affordable Care Act
Constitutional Challenges
Bill McCollum**

August 10, 2011

Three main cases:

Florida v United States Department of Health and Human Services, ____ F. Supp.2d ____, 2011., 2011 WL285683 (N.D. Fla. Jan. 31, 2011)

- 26 states and NFIB are plaintiffs:
 - Florida, South Carolina, Nebraska, Texas, Utah, Louisiana, Alabama, Michigan, Colorado, Pennsylvania, Washington, Idaho, South Dakota, Georgia, Alaska, Nevada, North Dakota, Indiana, Mississippi, Arizona, Ohio, Kansas, Wyoming, Wisconsin, Maine, Iowa
- Two challenges:
 - individual mandate (minimum essential coverage)
 - Medicaid expansion - federal coercion/commandeering states violates 10th Amendment
- District Court ruled individual mandate unconstitutional - not severable so all of Affordable Care Act unconstitutional
- Ruled Medicaid challenge without merit
- On appeal in 11th circuit Court of Appeals, awaiting opinion after June, 2011 oral arguments.

Virginia ex rel. Cuccinelli v Sabelius, 728 F. Supp.2d 768 (E.D. Va. 2010)

- Virginia only state plaintiff
- Only challenge to individual mandate
- No Medicaid provision challenge
- District Court ruled individual mandate unconstitutional, but severable so rest of law stands
- On appeal in 4th Circuit Court of Appeals joined with lesser known case awaiting opinion after oral arguments in May 2011

Thomas More Law Ctr v Obama, 720 F. Supp.2d 882 (E.D. Mich. 2010)

- Law Center and four individual plaintiffs
- Only challenge to individual mandate
- No Medicaid provision challenge
- District Court ruled individual mandate constitutional
- 6th Circuit Court of Appeals upheld constitutionality of individual mandate (June 29, 2011) ____ F.3d ____, 2011 WL2556039 (C.A. 6(Mich.))

National Conference of State Legislators

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Recommended reading:

Wickard v Fiburn, 317 U.S. 111 (1942)

Gonzales v Raich, 545 U.S.1 (2005)

United States v Lopez, 514 U.S. 549 (1995)

South Dakota v Dole, 484 U.S. 203 (1987)