



FOR IMMEDIATE RELEASE

February 13, 2012

**WLF REPRESENTS ELEVEN LEGAL SCHOLARS
IN CONSTITUTIONAL CHALLENGE TO
FEDERAL HEALTH CARE MANDATE**

(U.S. Dep't of Health & Human Servs. v. Florida)

U.S. Supreme Court

The Washington Legal Foundation (WLF) today filed a brief on behalf of eleven legal scholars in the U.S. Supreme Court, urging it to affirm an appeals court's decision striking down a portion of the federal health care reform law. The case, *U.S. Dep't of Health & Human Servs. v. State of Florida*, arises from a constitutional challenge to the Patient Protection and Affordable Care Act (PPACA), a federal law containing an individual mandate that would require all uninsured Americans, under threat of civil penalty, to purchase health insurance for themselves and their dependents.

WLF's brief was drafted with the pro bono assistance of Professor Ilya Somin of George Mason University's School of Law. WLF filed its brief on its own behalf and on behalf of its clients—eleven legal scholars whose teaching, research, and published scholarship focus on constitutional law and related fields. WLF's clients include Jonathan H. Adler (Case Western Reserve University School of Law); Steven G. Calabresi (Northwestern University School of Law); James W. Ely (Vanderbilt University School of Law); Elizabeth Price Foley (Florida International University School of Law); David N. Mayer (Capital University School of Law); Andrew Morriss (University of Alabama School of Law); Leonard J. Nelson III (Samford University's Cumberland School of Law); Stephen B. Presser (Northwestern University School of Law); Robert J. Pushaw (Pepperdine University School of Law); Ronald J. Rychlak (University of Mississippi School of Law); and Todd J. Zywicki (George Mason University School of Law).

“The Framers of the Constitution sought to maintain a careful balance of power between federal and state governments as a means of reducing the risks of tyranny and abuse by governments at every level,” said WLF Senior Litigation Counsel Cory Andrews after filing WLF's brief with the Court. “The individual mandate upsets that balance by seeking to regulate an individual's decision *not* to purchase health insurance—which is far afield from the enumerated powers assigned to the federal government under Article I of the Constitution,” Andrews said.

WLF's brief focused exclusively on countering the Government's claim that the Necessary and Proper Clause authorizes Congress to enact the individual mandate. WLF argued that even if the individual mandate were somehow necessary, it is not "proper." As WLF's brief demonstrated, both the text and original understanding of the Necessary and Proper Clause, as well as the Supreme Court's precedents interpreting it, support the conclusion that the Clause imposes two distinct requirements. In order to prevent the Clause from becoming a back door to unconstrained federal power, WLF argued that it is essential for the Supreme Court to enforce its precedents establishing that legislation authorized by the Necessary and Proper Clause must meet the requirements of both necessity *and* propriety.

WLF has filed briefs in support of other challenges to the PPACA's Individual Mandate. Last year, WLF filed briefs in *Virginia v. Sebelius* (4th Circuit), *Thomas More Law Center v. Obama* (6th Circuit), and *Florida v. U.S. Dep't of Health & Human Servs.* (11th Circuit).

WLF is a public interest law and policy center with supporters in all 50 States. WLF devotes a substantial portion of its resources to defending free enterprise, individual rights, and a limited and accountable government. Among other things, WLF works to ensure a healthy balance of power between the state and federal governments.

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For further information, contact WLF Senior Litigation Counsel Cory Andrews, (202) 588-0302. A copy of WLF's brief is posted on its web site, www.wlf.org.