

ETBU, HBU legally challenge regulations in health care mandate

October 9, 2012

HOUSTON—[East Texas Baptist University](#) and [Houston Baptist University](#) have filed a lawsuit challenging the preventative services mandate in the Affordable Care Act.

The two Texas Baptist schools filed suit Oct. 9 in the U.S. District Court for the Southern District of Texas. Defendants named in the suit are the secretaries of the U.S. Department of Health and Human Services, U.S. Department of Labor and U.S. Department of the Treasury.

East Texas Baptist University President Dub It marks the 32nd legal Oliver testified before the Oversight and challenge to the [Health and Government Reform Committee in Human Services mandate of Washington, D.C., in February.](#) [the Affordable Care Act](#) , popularly known as “Obamacare.”

At issue is a mandate that would require the faith-based universities to provide female employees all Food and Drug Administration-approved preventative birth-control methods—including “emergency contraception drugs” such as levonorgestral, known as “Plan B” or the “morning-after pill,” and ulipristal, sometimes called “Ella” or the “week-after pill.”

Some medical experts differ regarding whether the FDA-approved drugs prevent fertilized eggs from implanting in the womb, or whether they simply delay ovulation. But the suit filed by ETBU and HBU takes the

position the pills are “abortion-causing drugs” they cannot offer in good conscience.

“The mandate requires that the universities provide coverage or access to coverage for abortion-causing drugs and related education and counseling against their consciences in a manner that is contrary to law,” the lawsuit states.

The legal challenge asserts the Health and Human Services mandate violates the universities’ freedom of religion as secured in the First Amendment to the U.S. Constitution and the Religious Freedom Restoration Act of 1993, and it also violates their First Amendment rights to free speech.

The suit maintains the government mandate unconstitutionally coerces the universities to violate deeply held religious beliefs under threat of heavy fines and penalty—reportedly more than \$10 million per year per school if they fail to comply.

“Having to pay a fine to the taxing authorities for the privilege of practicing one’s religion or controlling one’s own speech is un-American, unprecedented and flagrantly unconstitutional,” the lawsuit states.

[The Becket Fund for Religious Liberty](#) is representing ETBU and HBU in the suit.

“Baptists in America, by virtue of their history, are particularly sensitive to coercive government actions that infringe on religious liberty. America’s first Baptist leader, Roger Williams, had to flee Massachusetts and found a colony in Providence, Rhode Island, because his religious beliefs were not tolerated by the laws of Massachusetts. We shouldn’t have to fight for that same right today,” said Eric Rassbach, deputy general counsel for the Becket Fund in a public statement.

ETBU President Dub Oliver, who testified against the Health and Human Services mandate before the U.S. House Committee on Oversight and Government Reform in February, insisted the lawsuit seeks to preserve religious liberty and the freedom of faith-based schools to carry out their mission free from coercion.

“Baptists have always advocated religious liberty, and religious liberty is what is at stake in this situation,” Oliver said. “As the famous Baptist preacher George W. Truett once remarked, ‘A Baptist would rise at midnight to plead for absolute religious liberty for his Catholic neighbor, and for his Jewish neighbor and for everybody else.’ We are rising today to ensure that religious liberty, the first freedom guaranteed in the First Amendment of the United States Constitution, is protected and preserved.”

Robert Sloan, president of Houston Baptist University, echoed the sentiment.

“While we are always reluctant to enter into lawsuits, the government has given us no choice,” Sloan said. “Either we violate our conscience or give in to the administration’s heavy-handed attack on our religious freedom. We will not comply with this unconstitutional mandate, and we plead with our government to respect the liberties given by God and enunciated in the Bill of Rights.”

Hollyn Hollman, general counsel for the [Baptist Joint Committee for Religious Liberty](#), noted the ETBU and HBU suit is “one of many” legal challenges brought by groups opposed to the Affordable Care Act—some of which already have been dismissed.

“The issues presented in these cases are the subject of ongoing rule-making,” she added.