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PPACA (Obamacare) - Where Are We On The Court Challenge?

On the evening August 12, 2011, the 11th Circuit Court of Appeal (Atlanta) issued a ruling declaring the new healthcare law unconstitutional on the grounds that we cannot be required by law to purchase a product from birth to death simply by existing. This is the consolidated case in Florida where 28 states are parties, including Louisiana, challenging the mandate requiring all individuals to purchase private health care insurance. The rest of the law will stand, according to the ruling. Of course, the financial efficacy of the law depends on the mandatory purchase provision.

Court observers are predicting the cases coming up through the federal courts, including those in Virginia (U.S. 4th Circuit Court of Appeal; Richmond) and that decided in Ohio (U.S. 6th Circuit; Cincinnati; mandate upheld) will likely make their way to the U.S. Supreme Court at least by the Spring, 2012 Session.

On the timing of presentation and decision by the U.S. Supreme Court, if a full court decision is requested by the Justice Department of the 11th Circuit decision; this could delay the cases going to the Supreme Court until after the presidential election in November, 2012. If the Justice Department does not ask for a full court review, then the cases will likely be presented to the Supreme Court by the Fall or Spring sessions.

Recall that the states are challenging the Obamacare Law, known by its official name of PPACA (The Patient Protection and Affordable Care Act), on the requirement of the individual purchase of health care coverage. Under the Act the failure to purchase health care coverage subjects the individual to penalties and fines. The states are attacking the Act under the Commerce Clause of the U.S. Constitution on the grounds that it is unlawful to require anyone by law to purchase a product with penalties simply by doing nothing. This is distinguished from the states' requiring the purchase of automobile coverage under penalty of law because

purchasing and driving an automobile on public streets is a choice. The legal challenges to Obamacare Law say it imposes fines and penalties simply by existing, which is contrary to the Constitution.

It is not clear which case will make it to the U.S. Supreme Court first, or if the cases will be taken up together. If the issue is heard in the Spring 2012 session of the U.S. Supreme Court, we will likely see a decision by the Summer or early Fall of 2012.

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