

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

LEONARD GREEN
CLERK

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May 12, 2011

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Re: No. 10-2388 *Thomas More Law Center, et al.*
v. Barack Hussein Obama, et al.

Dear Counsel:

I write at the direction of the panel to which the appeal noted above is to be argued on Wednesday afternoon, June 1, 2011. The court asks that you submit letter briefs of not more than ten pages, addressing the following questions:

1. Standing/Ripeness.

- a. Have the plaintiffs alleged an injury in fact? If not, have they alleged an "imminent injury" creating a case of actual controversy under Article III and the Declaratory Judgment Act, even though they filed their complaint more than three years before the effective date of the challenged provisions?
- b. If the plaintiffs do not purchase minimum essential coverage and do not pay the penalty, what available enforcement mechanisms are available to the IRS? What role, if any, do IRS enforcement mechanisms play in the injury and hardship requirements?

2. Facial/As-applied.

Is the Commerce Clause challenge a facial challenge and, if so, must the plaintiffs prove "that no set of circumstances exists under which the Act would be valid." *United States v. Salerno*, 481 U.S. 739, 745 (1987)?

Your letter briefs are to be filed not later than May 23, 2011. Thanking you for your attention to this request, I am

Very truly yours,



Leonard Green, Clerk

cc: Members of the Panel
Mrs. Yvonne Henderson