

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CONESTOGA WOOD SPECIALISTS CORP.,	:	
et al.,	:	
	:	
Plaintiffs,	:	No. 5:12-cv-06744-MSG
	:	
v.	:	
	:	
KATHLEEN SEBELIUS, et al.,	:	ELECTRONICALLY FILED
	:	
Defendants.	:	

***AMICUS CURIAE* BRIEF OF THE AMERICAN CIVIL LIBERTIES UNION AND THE
AMERICAN CIVIL LIBERTIES UNION OF PENNSYLVANIA IN OPPOSITION TO
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

TABLE OF AUTHORITIES

Cases

Catholic Charities of Diocese of Albany v. Serio, 11 F.3d 1000 (2d Cir. 2000).....

Catholic Charities of Sacramento, Inc. v. Superior Court, 450 U.S. 147 (1980).....

Dole v. Shenandoah Baptist Church, 519 U.S. 67 (2006).....

EEOC v. Fremont Christian School, 11 F.3d 1166 (9th Cir. 1994).....

EEOC v. Kamehameha Schools/Bishop Estate, 508 U.S. 189 (2003).....

Erzinger v. Regents of University of California, 11 F.3d 1111 (9th Cir. 1994)..... 11

Goehring v. Brophy, 512 U.S. 1 (2003), abrogated on other grounds by *City of Boerne v. Flores*, 521 U.S. 50 (1997)..... 10

Hobby Lobby Stores v. Sebelius, 134 S.Ct. 275 (2012) (D.C. 12-001)..... 10

Korte v. Sebelius, 134 S.Ct. 1017 (2012) (D.C. 12-001)..... 10

Newman v. Piggie Park Enter., Inc., 603 F.2d 1166 (5th Cir. 1979), aff'd in relevant part and rev'd in part on other grounds, 543 U.S. 166 (2004), aff'd and modified on other grounds, 543 U.S. 166 (2004)..... 1

O'Brien v. U.S. Department of Health & Human Services, 510 U.S. 10 (2003) (D.C. 03-001), stay granted, 134 S.Ct. 1111 (2012)..... 10

Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 U.S. 823 (1992).....

Tarsney v. O'Keefe, 510 U.S. 1000 (2003)..... 11

Zelman v. Simmons-Harris, 536 U.S. 617 (2002)..... 10

Federal Statutes

5 U.S.C. § 5000.....

5 U.S.C. § 5000-1.....

11 U.S.C. § 1111-1, 1001, 1111-1 (1), 1111-1 (1).....

INTRODUCTION

Plaintiffs' claims would not only contravene this clear and consistent precedent, but would also

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FACTUAL BACKGROUND

The Patient Protection and Affordable Care Act ("ACA") provides that certain preventive
effort to help eliminate some forms of gender inequality by equalizing men and women's health

care coverage, Congress added the Women's Health Amendment ("WHA") to the ACA, which

he WHA was necessary for "millions of women who are being discriminated against"

noted: "Often those things *unique to women*

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contraception is

ARGUMENT

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found to be a critical means of helping promote women's equality and eradicating

discrimination. While today's controversy centers around health, b f f

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"Protestant-only" hiring policy based on the school's founder's religious beliefs. Under this

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also recognized the direct relationship between women's reproductive health decisions and their equal participation in society: "The ability of women to participate equally in the economic and political life of the Nation has been facilitated by their ability to control their reproductive lives."

a university's requirement that they pay a registration fee on the ground that it was used to subsidize the school's health insurance program, which covered abortion . *Id.* 1 .

Newman, § 6, § 4

For the foregoing reasons, Plaintiffs' Motion for a Preliminary Injunction should be

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s/Mary Catherine Roper

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