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

CONESTOGA WOOD SPECIALISTS CORP., :

et al.,

No. 5:12-cv-06744-MSG

Plaintiffs,

v.

:

KATHLEEN SEBELIUS, et al.,

: ELECTRONICALLY FILED

Defendants.

erendants.

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 CONTENTS

<b>↑</b>	D	<b>\</b>	<b>2</b> ,
			<b>N</b> D
	N		
		<b>.</b> .	$\mathbf{D}_{\mathbf{r}}$
		, ,	, <b>D V</b> \$1000

# **TABLE OF AUTHORITIES**

### Cases

Catholic Charities of Diocese of Albany v. Serio, $\hat{\mathbf{N}}$ . $\hat{\mathbf{N}}$ . $\hat{\mathbf{N}}$ .
Catholic Charities of Sacramento, Inc. v. Superior Court, . ,6 [ ( ,. 00 )
Dole v. Shenandoah Baptist Church, . 1 ( , .1 0)
EEOC v. Fremont Christian School, $1$ . $1,6\square$ ( , .1,6 $\square$ )
EEOC v. Kamehameha Schools/Bishop Estate, 0 . ( , . 1 )
Erzinger v. Regents of University of California, 1
Goehring v. Brophy, . 1 ( , .1,6 $\square$ ), abrogated on other grounds by City of Boerne v. Flores, 1 $\square$ 0 (1 )
Hobby Lobby Stores v. Sebelius, $0 \leq 1 \leq 1 \leq 1$ ( .D. , . 01 )
Korte v. Sebelius, $\stackrel{\bullet}{\mathbf{N}}$ . 110 , 01 $\stackrel{\bullet}{\mathbf{G}}$ $\stackrel{\bullet}{\mathbf{G}}$ $\stackrel{\bullet}{\mathbf{G}}$ $\stackrel{\bullet}{\mathbf{D}}$ . $\stackrel{\bullet}{\mathbf{N}}$ . $\stackrel{\bullet}{\mathbf{D}}$ . 1 , 01 )
Newman v. Piggie Park Enter., Inc., $\bullet\Box$ . $\Box$
O'Brien v. U.S. Department of Health & Human Services, 01 1 0 (.D. ,, 01), stay granted, N . 1 ( , . N , 01)
Planned Parenthood of Southeastern Pennsylvania v. Casey, $0 \downarrow \Box$ (1 )
Tarsney v. O'Keefe, ( , . 000)
Zelman v. Simmons-Harris, $\bullet \Box \varsigma \Box $
Federal Statutes
₹□ . • 000
<b>3</b> □ . 000 -1
,

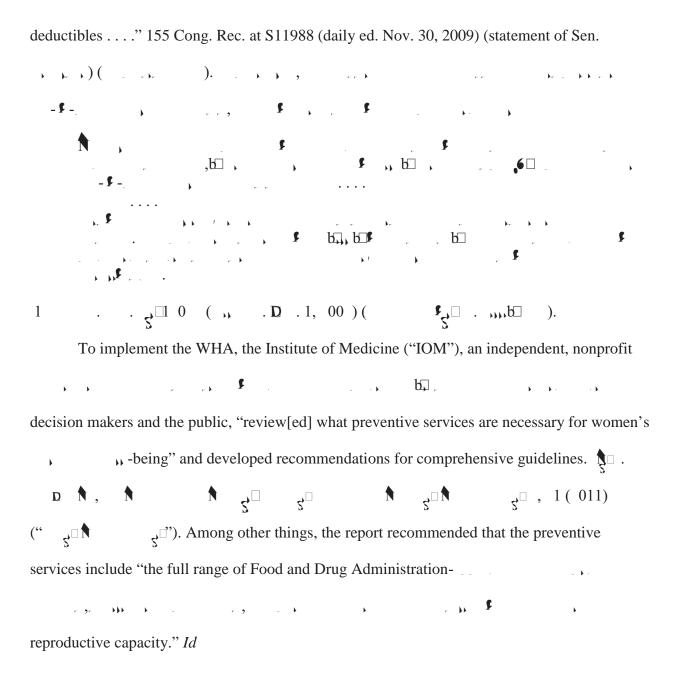
#### Regulations

#### **Other Authorities**

Health Res. & Servs. Admin., U.S. Dep't of Health & Human Servs., Women's Preventive Services: Required Health Plan Coverage Guidelines,

# **INTRODUCTION**

	/	<b>)</b>	<b>,</b> ,	** *	, <b>,,b</b> [	•	<b>)</b>	•	r
<b>f</b> , –	<b>)</b>	r •	<b>)</b> ,,	ţ	r r	r <b>,</b> r	e !		
<b>,</b> ,			<b>)</b> } ,	,,b\(\Bar{\Bar{\Bar{\Bar{\Bar{\Bar{\Bar{	r	-	r r .	).	· •
<b>)</b>	n • • •	· •		r	<b>)</b> ~ <b>)</b>		,	-	ţ
Plaintiffs'	claims wou	uld not only	contraven	e this cle	ear and co	onsistent	preceder	nt, but wo	ould also
	ţ	r	) rr	, - <sub>}</sub> ,	<b>,</b> , ,		<b>)</b>		
b□ <b>s</b>	b, ,	t t	<b>,</b> ,	<b>)</b>	<b>,</b> , ,	<b>b</b> e	Ъ□	** **	, bu, <b>f</b> ,
		1	FACTUA	L BAC	KGROU	ND			
Th	e Patient Pr	rotection and	Affordab	ole Care	Act ("AC	CA") pro	vides tha	t certain	preventive
r • • • • •	, b <b>s</b>	<b>,</b>	• -	·) r		<del>-</del> -	. ७□	. 11	1-1 ,
. 1001,	1 ( ),	1 , . 11	,11(0	010) ( b	_ <b>,\$</b> ,		્રે□ .∡	00 -1	( )).
		te some form							
care cover	rage, Congr	ess added the	e Women	's Health	n Amendr	ment ("V	VHA") to	the AC	A, which
1	<b>) )</b>	·) - r	. 1	<b>)</b>		r · • • r	¢	. <i>Id</i> .,	. 1001,
1 ( )(	( ), 1 <sub></sub>	. 11( b	□ <b>,\$</b> ,		∡. ت	00 -1	( )( )).		
	~	· • •			~				
, . )		,							
		" . <b>N</b> .							
	~				~				<b>,</b> .) .
		ecessary for "							
1 .	<u>,</u> ,1	0 0 ( "	. <b>D</b> . 1	, 00 )(		<b>5</b> √□ .	, ). ,	- حا□	)
		hings <i>unique</i>							
		rr 🕨							



contraception is

# **ARGUMENT**

•		I N		lack	N □	À	D	\$□	$\mathbb{D}_{\downarrow}\square$	lack	N	
	\$											r
),		<b>)</b>	, <b>f</b>	•	~ )	, b□			Ъ□	<b>5</b> , ,		r
found to be	e a cr	itical	means	of help	oing pr	omote	wome	en's eq	uality and	d eradic	eating	
discrimina	tion.	While	today	's cont	rovers	y cente	ers aro	und he	alth,	Ъ□	<b>5</b> , , <b>5</b>	
	,	ţ		<b>)</b> 1		_	þ	· • •	b□ ,	r		<b>)</b> ) ~ ~
r <b>)</b>		<b>.</b>	<b>)</b>	<b>,</b> ,		<b>.</b>	ı	<b>)</b> n	, .	,,	r þr	•
r		•	e e	•	, <b>f</b> , .		r •	•	-			
		•		-	,,,	1	, ,	, , -		•	<b>,</b> ,	
"Protestant	t-only	y" hiri	ng pol	icy bas	sed on t	the sch	ool's	founde	r's religi	ous beli	iefs. Und	er this

b□0001 0 **D**-.1.0()□/ 1 **f** 0,6□( ., 0

1660 F, - , , , F, 0 , 10 ., Bessinger argued that enforcement of the Civil Rights Act of 1964's public accommo provision violated his religious freedom "since his religious beliefs compel[led] him to oppose any integration of the races whatever." Newman v. Piggie Park Enters., Inc.,  $\bullet \Box$   $\Box$  . 1,  $(\mathbf{D}_{\mathbf{S}}\square \ .\ \mathbf{1,46}\square), \ aff'd \ in \ relevant \ part \ and \ rev'd \ in \ part \ on \ other \ grounds,$ , . 1,6  $\square$  ), aff'd and modified on other grounds,  $0 \subseteq \square$  00 (1,6  $\square$  ). ţ **f** , - , - , - **f** , - - , - , - , -

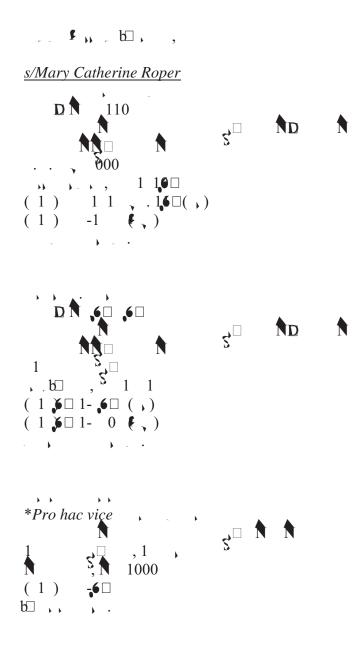
also recognized the direct relationship between women's reproductive health decisions and their equal participation in society: "The ability of women to participate equally in the economic and of the Nation has been facilitated by their ability to control their reproductive lives."

Human Services, , b□		<i>'</i>	<b>&gt;&gt;</b> >
, b b b ., , , , ,		, bo , bo	.N.16Q
01 1 0 , <b>⋄</b> □ ( . <b>D</b> . <b>♂</b> □ .	, 01 ), sta	sy granted, $\uparrow$ . 1 -	- ( , .
↑ . , 01 ) see also Hobby Lobby Stores	v. Sebelius,	0 5 1	, 1 ( . <b>D</b> .
. 01)( , , , , , , , ,	.   • •	<b>,,</b>	. )
b□ ,	<b>)</b>	<b>)</b>	, b
burden on their religion because of the "indire	ect and atten	uated relationship"	between the
s' religious beliefs and the rule's requi	irements); K	Korte v. Sebelius, 🐧	. 110 ,
2012 WL 6553996, at *10 (S.D. Ill. Dec. 14, 2	2012) (same	); Defs.' Br. at 20-	. O'Brien
, h	<b>,</b>	( ) r -) r	))
	r	, <b>f</b>	, ,
substantially burden religious beliefs solely by	y requiring a	n expenditure of m	oney "that might
, bi , bi , , , ,	, te	nt with [an employe	er's] religious
values." O'Brien * cf. Zelman v. Simmons	s-Harris, <b>,6</b>		00)(,,
school voucher program did not violate the Es	stablishment	Clause because par	rents' "genuine and

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,  $\bullet \square \Rightarrow \square$ .

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



 $\mathbf{D}$   $\mathbf{D}$   $\mathbf{b}\Box$  0, 01.