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All Eyes on the US Supreme Court: More than Birth Control at Stake

Among the most polarizing elements of the Affordable Care Act (ACA) has been the requirement that plans include coverage for all prescribed Food and Drug Administration-approved contraceptives. This debate will culminate (but likely not end) when the Supreme Court rules on the cases of two for-profit corporations, Hobby Lobby and Conestoga Wood Specialties, that are claiming that this requirement violates their religious rights. While on the surface the case is about the ACA and birth control, the scope is potentially far broader than coverage and contraception. These cases raise fundamental issues of religious rights for employers and workers, as well as constitutional and corporate law. Several interested parties have filed briefs in support of either the government or the plaintiffs.

States are divided on the implications of allowing corporations to exercise religious rights. California, Massachusetts and 14 other states are concerned that allowing a for-profit corporation to assert religious rights would override settled principles of state corporate law and could interfere with enforcement of state and federal laws that provide important rights and protections for all state residents. But in their brief, Michigan, Ohio and 18 other states contend that the corporate form is not inconsistent with exercising religion; nonprofit corporations can exercise religion, and it is untenable to conclude that for-profit corporations do not have the same religious rights. These states “seek to foster a robust business climate in which diverse employers can succeed to the benefit of all: the states have a very real interest in the businesses and jobs that the harsh penalties of the Department of Health and Human Services mandate threaten to eradicate.”

It is difficult to overstate the impact of the Court’s decision on the religious protections offered to corporations. In February 2014, the Arizona state legislature passed a bill allowing corporations to refuse service to people who are gay and others if the owner believes doing so violates the practice and observance of his or her religion. While the governor vetoed this legislation in Arizona, 14 other states have recently considered similar legislation. The Court’s decision in Hobby Lobby will likely also influence the fate of state laws such as those. At the end of the day, the Court will need to speak to the intersection of two fundamental legal protections, those that honor religious beliefs and freedom and those that protect civil rights. Like many other issues related to the ACA, this one will be hotly contested. We’ll be monitoring the Court’s decision and will share further insight once available.

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877-861-3220



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