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Supreme Court Rules That For-Profit Corporations Are Not Obligated to Comply With the Affordable Care Act's Contraception Mandate Based on Religious Beliefs

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On Monday, the U.S. Supreme Court held that the protections of the **Religious Freedom Restoration Act** of 1993 (RFRA) extend to some **for-profit corporations** seeking an exemption from a mandate in the **Affordable Care Act** (ACA) requiring non-grandfathered group health plans to cover, among other preventative health measures, the cost of certain contraception for women.

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Labor & Employment Update

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The ACA requires an employer with 50 or more employees to provide health insurance coverage to its employees. The insurance must cover "preventative care and screenings" for women without any "cost-sharing" to employees. This includes all forms of contraception that have been approved by the Federal Food and Drug Administration (FDA). Four of the contraceptive methods on the FDA's list prevent an already fertilized egg from implanting in a woman's uterus.

Hobby Lobby Stores Inc. is a national arts and crafts chain that is privately owned by the Green family and Conestoga Wood Specialties Corporation is a wood-working business that is privately owned by the Hahn family. Because both families espouse religious beliefs that life begins at the moment of conception, they object to the ACA's mandate requiring their companies to cover the four contraceptive methods which prevent implantation of an already fertilized egg. Relying upon their religious beliefs, both corporations argued to the Court that they were entitled to the religious rights afforded by RFRA, which prohibit the "Government [from] substantially burden[ing] a person's exercise of religion even if the burden results from a rule of general applicability" unless the government "demonstrates that application of the burden to the person (1) is in furtherance of a compelling governmental interest, and (2) is the least restrictive means of furthering that compelling governmental interest."

Compelling Interest and Least Restrictive Means Found

In the majority opinion, Justice Samuel A. Alito rejected the Secretary of Health and Human Services' (HHS) argument that for-profit corporations are not "persons" entitled to the protections of RFRA. He noted that in passing RFRA, Congress purposely sought to protect the religious rights of the "people (including shareholders, officers and employees) who are associated with a corporation in one way or another." Because RFRA does not define the term "persons," the Court looked to the Dictionary Act, which defines "persons" as "corporations, companies, associations, firms, partnerships, societies and joint-stock companies as well as individuals." As there was nothing in RFRA to suggest that Congress intended to deviate from the Dictionary Act's definition, its application was appropriate.

The majority assumed that the interest in guaranteeing cost-free access to the four challenged contraceptive methods is a compelling governmental interest. Therefore, it then became incumbent on HHS to demonstrate that its contraceptive mandate, which places a burden on the exercise of religion, was the least restrictive means of

furthering the interest of guaranteeing cost-free access to the challenged contraceptive methods. The majority determined that HHS had failed to satisfy RFRA's least restrictive means standard. HHS did not show that it lacked other means of achieving its desired goal without imposing a substantial burden on the exercise of religion.

In his decision, Justice Alito stated that the most straightforward way of "furthering [a] compelling governmental interest" might have been for the government to assume the cost of providing the contraceptives at issue to any women who were unable to obtain them under their health insurance policies due to their employers' religious objections. He further opined that the government had other less restrictive ways of achieving its goals, short of compelling a corporation to provide contraceptive coverage to its employees. He pointed, for example, to an "accommodation" already in the ACA for certain nonprofit religious organizations, like hospitals and universities, which have "religious objections" to providing contraceptive coverage. The "accommodation" allows an employer to process contraceptive claims through a third-party administrator. Justice Alito suggested that this type of "accommodation" could be extended to closely held corporations like Hobby Lobby that object to providing contraceptive coverage to employees.

The Dissent

In her dissenting opinion, Justice Ruth Bader Ginsburg warned that the majority's decision is of "startling breadth" because it allows for-profit corporations to "opt out of any law (saving tax laws) they judge incompatible with their sincerely held religious beliefs." The dissent explains that under RFRA, corporations are not "persons" that can "exercise religion." Unlike religious nonprofit organizations, which "exist to foster the interests of persons subscribing to the same religious faith," corporations are merely "artificial" entities that exist separately from the individual owners of the corporation. They operate with the primary purpose of generating a profit. The dissent cautioned that the Court's holding opens the door for employers to assert religious objections to other mandates in the ACA, such as blood transfusions, antidepressants and vaccinations.

Employer Implications

As a result of this decision, it is likely that there will be additional challenges to the mandates of ACA by closely held corporations based upon religious objections, and we will keep you advised of those developments from an employment perspective.