

Going Before A Higher Power – Nuns Take On Obamacare

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**Mark D.
Scudder**
Of Counsel

On Nov. 6, 2015, the U.S. Supreme Court agreed to hear the appeals of several religious employers challenging the contraceptive mandate under the Patient Protection and Affordable Care Act (ACA). The court will consolidate seven cases, the most prominent of which was brought by the Little Sisters of the Poor, an order of Catholic nuns who dedicate their lives to helping the elderly poor. The other employers include several Catholic dioceses, a religious non-profit group and several Christian colleges. The contraception mandate requires religious employers who object to providing contraceptive services to notify the government of their objection, which transfers the responsibility of providing those services to the employer's insurer. The petitioners argue that this procedure violates the Religious Freedom Restoration Act because it effectively forces the employer's health plan to cover services the employer finds objectionable. They argue that the government has less restrictive means available to provide these services. The consolidation of these seven cases is particularly interesting because the employers have varied insurance arrangements. While some of the employers are insured by large insurance carriers, others are self-insured, or have "church plans" as defined by ERISA. It is unclear whether these different arrangements will affect the outcomes for the particular employers. The court is expected to hear oral argument in the case in March 2016.

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