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### November 3, 2012: Accommodating Religion

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Title: Accommodating Religion

Date: 2012-11-03T06:16:00.001-04:00

11/3/2012—According to the Catholic News Agency, (CNA), a second business has won a temporary injunction against the contraception mandate in the Affordable Care Act. The first such injunction was issued in July on behalf of Hercules Industries. (One company, O'Brien Industrial Holdings, lost its case against the mandate). On October 31, 2012, US District Judge Robert Cleland granted a preliminary injunction on behalf of Weingartz Supply Company, a family owned and operated outdoor power equipment company. At the same time, an injunction on behalf of Legatus, a non-profit organization of Catholic business owners and CEOs was denied for now because Legatus qualifies for a safe harbor provision the government is offering for religious groups that are non-exempt under the exemption. There are two sorts of issues being litigated here. First, Weingartz, though closely held, is apparently a corporation. That is not unusual among small businesses. The Judge held that a corporation can “assert the free exercise rights of its owners” when it is closely held and is “merely the instrument through and by which (the plaintiffs) exercise their religious beliefs.” The second issue is much broader. Can any merely for-profit business claim religious rights in the market against economic regulations. There are plenty of business owners who object to unions on religious grounds—or will soon do so. And what about government regulation in general? Didn't God grant the institution of private property? I am struggling with all this and I must admit that life is outdistancing my ability to formulate any proper response. Religious exemptions were the subject of my talk last week at Elon. But all I could say was that society really cannot function if businesses can gain economic advantage by claimed religious exemptions to regulations. It should also be remembered that this litigation is going forward under statutory exemption, in all likelihood: The Religious Freedom Restoration Act. So, all this is subject to legislative struggle. That is just what is going to happen. Secular attitudes toward religion are going to harden. So now add exemptions to our ongoing struggle over God-language in the public square. I fear for the future of our country.