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Attorney for Plaintiffs

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

2011 FEB 11 AM 10:20

DEPUTY CLERK



**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION**

ARTHUR ENLOE;
LIBERTY LEGAL FOUNDATION;
DONNY HARWOOD; GERALD MAZA;
BRIAN RUSHING; MILLARD RAMSEY, et al

Plaintiffs,

v.

BARACK OBAMA, in his official capacity as
President of the United States;
HARRY REID, in his official capacity as
Majority Leader of the Senate;
NANCY PELOSI, in her official capacity as a
Member of the U.S. House of Representatives
THE UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES;
KATHLEEN SEBELIUS, in her official capacity
as Secretary of the United States Department of
Health and Human Services;
ERIC HOLDER, in his official capacity as
Attorney General of the United States of America; and
THE UNITED STATES OF AMERICA,

Defendants

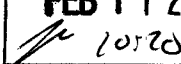
5-11CV0026-C

CASE NO:

Judge:

CLASS ACTION COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs Arthur Enloe, Liberty Legal Foundation, Donny Harwood, Dr. Gerald Maza,
Brian Rushing, and Millard Ramsey on behalf of themselves and all others similarly situated, by
and through their undersigned counsel Van Irion, bring this Complaint for declaratory and

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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

injunctive relief against the United States, its officers, its employees, and its agents, and in support thereof allege the following upon information and belief.

JURISDICTION & VENUE

1. The Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1346, and 1361. The Court has authority to grant declaratory relief pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and pursuant to the Federal Rules of Civil Procedure 57 and 65, and the general legal and equitable powers of this Court.
2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b)(2) and 1402.

NATURE OF THE ACTION

3. Plaintiffs challenge the constitutionality of the Patient Protection and Affordable Care Act (Pub. L. No. 111-148, H.R. 3590), as amended by the Health Care and Education Reconciliation Act (Pub. L. No. 111-152, H.R. 4872) (hereinafter collectively “Obamacare”), alleging that Obamacare violates the Constitution because the federal government lacks legal authority under Article I, Section 8, Clause 3 of the U.S. Constitution and that Obamacare violates the Tenth Amendment of the Constitution because the power to enact Obamacare was not delegated to Congress and is reserved to the States or the people, including the Plaintiffs herein.

A. Federal Authority is Limited to Authority Explicitly Granted by the States

4. The U.S. Constitution grants only specific and limited powers to the Federal Government.

5. The reason that powers granted to the Federal Government are specific and limited by the Constitution is to protect individual States and individual citizens from abuse of power by the Federal Government.
6. The 10th Amendment to the Constitution explicitly establishes that the Federal Government has no authority to perform any particular act, unless the Constitution explicitly grants the Federal Government authority to so act.
7. The purpose of the 10th Amendment is to reiterate the overall purpose of the Constitution, and to emphasize the limitations placed upon the Federal Government's authority to act.
8. The individual states refused to ratify the Constitution until after the first ten amendments, the Bill of Rights, including the 10th Amendment, were included in the Constitution.
9. All rulings by any Federal Court that leave no appreciable limitations upon Congressional authority clearly destroy the central purpose of the Constitution. All such rulings, therefore, violate the most fundamental cannon of legal interpretation. Specifically all precedent that interprets the Commerce clause or the General Welfare clause of the Constitution as granting Congress essentially unfettered authority to regulate all aspects of human interaction, effectively destroy the most important purpose of the Constitution. Such precedent has eroded the foundations of our Republic, and must be overturned.
10. Any law passed by the Federal Government that is not within the specific authority granted the Federal Government by the Constitution is null and void, and is unenforceable.

11. Citizens of the United States have no obligation to act in accordance with any law passed by the Federal Government that attempts to regulate matters not within the scope of authority granted to the Federal Government by the Constitution.

B. Obamacare is Beyond the Scope of Authority Granted to Congress

12. Nothing in the Constitution grants the Federal Government authority to regulate health care or the health insurance industry.
13. The Patient Protection and Affordable Care Act (hereinafter “PPACA”) is a Federal law that purports to regulate health care and health insurance. Therefore, the PPACA in its entirety is unconstitutional and unenforceable.

C. Violation of Oath to Uphold the Constitution

14. Defendants Obama and Reid voluntarily took an oath to uphold and defend the Constitution of the United States as a prerequisite to taking the offices they now hold.
15. Defendants Obama and Reid ignored the purpose of the Constitution and violated their oaths of office by supporting, voting for, and signing the PPACA.
16. On December 24, 2009 Defendant Reid presided over the Senate’s passage of Obamacare. Defendant Reid also voted for the PPACA in his capacity as a U.S. Senator.
17. On March 23, 2010 Defendant Obama signed the PPACA in his capacity as President of the United States.

D. The Commerce Clause Does Not Remove Limits on Federal Authority

18. Cannons of legal interpretation, and basic logic, establishes that an interpretation of a clause within a document in a way that results in negating the overall purpose of the document, must be an incorrect interpretation of said clause.
19. The Supreme Court's 1942 holding in *Wickard v. Filburn* essentially removed all limits placed upon Congressional authority under the Constitution. *Wickard* runs contrary to all precedent interpreting the commerce clause during the 130 years following ratification of the Constitution. *Wickard* runs contrary to the clear meaning of the Constitution. *Wickard* destroyed the purpose of the Constitution. Therefore, *Wickard* must be overturned.

E. This Court's Duty to Uphold the Constitution is Superior to its Duty to Higher Courts

20. The Judicial Officers of this Court swore an oath to uphold the Constitution of the United States. Said Oath authority of God was made in the name of God.
21. In *Hutto v. Davis* the U.S. Supreme Court stated: "a precedent of [the Supreme] Court must be followed by the lower federal courts no matter how misguided the judges of those courts may think it to be." 454 U.S. 370, 375 (1982).
22. Therefore, U.S. Supreme Court's decision in *Hutto* presumes to place the authority of precedent higher than the authority of God.
23. If this Court believes that precedent from a higher court is an incorrect interpretation of the Constitution and such belief results in this Court's determination that the Federal government has violated the Constitution, then this Court has a duty to enjoin the government. Failure to do so would violate an oath to God. Citation to erroneous

precedent does not relieve this Court of its duty to uphold its oath to God, taken voluntarily upon taking office.

F. Preemption Doctrine is Inapplicable and Cannot Arise

24. The basis of preemption doctrine is the supremacy clause of Article 6 of the U.S. Constitution. However, the supremacy clause only applies to laws that are “made in pursuance” of the Constitution. Therefore, passage of laws outside of the limited authority granted to Congress by the States negates supremacy of said laws. Without supremacy as an underlying foundation, preemption doctrine cannot arise. Put another way, when Congress acts beyond the scope of its authority the resulting law never existed and preemption doctrine is inapplicable.¹

G. The Purpose of the Constitution is to Protect Individual Rights

25. The Constitution is an anti-majoritarian document that protects individual rights from invasions and usurpations of the majority. Such rights are protected regardless of the majority’s desire to violate them. Without such protections any law enacted by Congress would be valid, even if it denied an individual their right to life, liberty, or property. Without the anti-majoritarian protection of the Constitution, Congress could legalize the killing of all Jews, for example, as was done in pre-World War II Germany.

¹ Congress has no more ability to pass laws beyond its authority than a burger flipper behind the counter at McDonalds has the ability to sell the McDonalds Corporation to a random customer for a dollar. Such a sale would be immediately nullified by any court and would have no legal affect. The Federal Government is the “employee” of the states, not the other way around. Unconstitutional acts of Congress have no more legal affect than any unauthorized act of an employee. (Apparent authority cannot exist in the face of a published disclaimer of authority. The Constitution is that very public disclaimer.)

26. Therefore, any judge-derived doctrine that limits this Court's authority to enjoin the federal government based upon so-called democratic considerations, such as the "political question" doctrine, ignores the anti-majoritarian nature of the Constitution and negates the purpose of the Constitution. Such doctrines are logically unsupportable and unconstitutional on their face.

CLASS ACTION ALLEGATIONS

27. Plaintiffs bring this action on behalf of themselves and a class of persons initially defined as follows:

All persons in the United States of America who object to being forced to participate in the PPACA for any of the reasons set forth herein including violation of their rights protected under the 10th Amendment to the U.S. Constitution (the "Class").

28. This action has been brought and may properly be maintained on behalf of the Class proposed above under the criteria of Federal Rule of Civil Procedure Rule 23.

29. Numerosity. Members of the Class are so numerous that their individual joinder herein is impracticable. Hundreds of millions of U.S. citizens have been negatively affected by the federal government's enactment of the PPACA, as described herein. Also, more than 30,000 individual Americans and U.S. companies have joined as members of Liberty Legal Foundation for the specific purpose of being represented in this class action as members of Liberty Legal Foundation.

30. Existence and predominance of common questions. Common questions of law and fact exist as to all members of the Class and predominate over questions affecting only individual Class members. These common questions include the following:

a. Is it unconstitutional to force these Plaintiffs to participate in the PPACA?

- b. Does the federal government have the authority to pass and enforce the PPACA under the Constitution?
- c. Are the Plaintiffs' Constitutional rights under the 10th Amendment reserved to the people?

31. Typicality. Plaintiffs' claims are typical of the claims of the Class, because, among other things, all Plaintiffs object to being forced to participate in the PPACA because it goes beyond the limited powers delegated to Congress.
32. Adequacy. Plaintiffs are adequate representatives of the Class because their interests do not conflict with the interests of the members of the Class they seek to represent. Plaintiffs have retained counsel competent in complex class action litigation, and Plaintiffs intend to prosecute this action vigorously. The interests of members of the Class will be fairly and adequately protected by Plaintiffs and their counsel.
33. Superiority. The class action is superior to other available means for the fair and efficient adjudication of this dispute. The injury suffered by each Class member, while meaningful on an individual basis, is not of such magnitude as to make the prosecution of individual actions against the Defendants economically feasible. Even if Class members themselves could afford such individualized litigation, the court system could not. In addition to the burden and expense of managing myriad actions arising from the claims described herein, individualized litigation presents a potential for inconsistent or contradictory judgments, individualized litigation increases the delay and expense to all parties and the court system presented by the legal and factual issues of the case. By contrast, the class action device presents far fewer

management difficulties and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court.

34. In the alternative, the Class may be certified because:

- a. the prosecution of separate actions by the individual members of the Class would create a risk of inconsistent or varying adjudication with respect to individual Class members which would establish incompatible standards of conduct for Defendants;
- b. the prosecution of separate actions by individual Class members would create a risk of adjudications with respect to them which would, as a practical matter, be dispositive of the interests of other Class members not parties to the adjudications, or substantially impair or impede their ability to protect their interests; and
- c. Defendants have acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final and injunctive relief with respect to the members of the Class as a whole.

REPRESENTATIVE PLAINTIFFS

A. Liberty Legal Foundation

35. Plaintiff Liberty Legal Foundation (hereinafter “LLF”) falls under the definition of a 501(c) 3 charitable organization. Its primary goal is the defense of basic human rights. Its stated mission is to “Strategically challenge flawed court precedent to restore the Constitution and individual liberties.”

36. Plaintiff LLF incorporates by reference all of the other allegations of this complaint as if fully set forth herein.

B. Donny Harwood, Health Care Professional

37. Plaintiff Donny Harwood hereby incorporates by reference all of the allegations set forth in this complaint as to the defendants' actions and failures to act and he objects to them as a member of LLF.
38. Donny Harwood is a United States Citizen currently residing in Tennessee.
39. Donny Harwood is a registered nurse currently working as an emergency room nurse.
40. Donny Harwood will serve as an adequate representative of the Class because his interests do not conflict with the interests of the members of the Class and the interests of the members of the Class will be fairly and adequately protected by Donny Harwood.
41. As a direct and proximate result of the defendant's actions and failures to act, Plaintiff Donny Harwood is concretely and continuously harmed because he is compelled to adjust his fiscal affairs now to prepare himself to pay thousands of dollars over the next several years as required by the PPACA. Donny Harwood is also concretely and continuously harmed because the PPACA has negatively affected his work conditions and terms of employment as a health care professional.

C. Dr. Gerald Maza, Physician

42. Plaintiff Dr. Gerald Maza is a member of LLF and serves on its Board of Directors.
43. Plaintiff Gerald Maza hereby incorporates by reference all of the allegations set forth in this complaint as to the defendants' actions and failures to act and he objects to them as a member of LLF.
44. Gerald Maza is a United States Citizen currently residing in Tennessee.

45. Gerald Maza will serve as an adequate representative of the Class because his interests do not conflict with the interests of the members of the Class and the interests of the members of the Class will be fairly and adequately protected by Gerald Maza.
46. As a direct and proximate result of the defendant's actions and failures to act, Plaintiff Gerald Maza is concretely and continuously harmed because he is compelled to adjust his fiscal affairs now to prepare himself to pay thousands of dollars over the next several years as required by the PPACA. Dr. Gerald Maza is also concretely and continuously harmed because his medical practice is negatively impacted by the PPACA. The PPACA has caused Dr. Maza to provide increased health care services to his patients without compensation.

D. Brian Rushing, Tanning Salon Owner

47. Plaintiff Brian Rushing is an individual United States citizen.
48. Plaintiff Brian Rushing hereby incorporates by reference all of the allegations set forth in this complaint as to the defendants' actions and failures to act and he objects to them.
49. Brian Rushing will serve as an adequate representative of the Class because his interests do not conflict with the interests of the members of the Class and the interests of the members of the Class will be fairly and adequately protected by Brian Rushing.
50. As a direct and proximate result of the defendant's actions and failures to act, Plaintiff Brian Rushing is concretely and continuously harmed because he is compelled to adjust his fiscal affairs now to prepare himself to pay thousands of

dollars over the next several years as required by the PPACA. Also, Brian Rushing is concretely and continuously harmed because his tanning salon business has been singled out for punitive treatment by the terms of the PPACA.

E. Arthur Enloe, Texas Resident

51. Plaintiff Arthur Enloe is a member of LLF.

52. Plaintiff Arthur Enloe hereby incorporates by reference all of the allegations set forth in this complaint as to the defendants' actions and failures to act and he objects to them as a member of LLF.

53. Arthur Enloe is a United States Citizen currently residing in Slaton, Texas.

54. Arthur Enloe will serve as an adequate representative of the Class because his interests do not conflict with the interests of the members of the Class and the interests of the members of the Class will be fairly and adequately protected by Arthur Enloe.

55. As a direct and proximate result of the defendant's actions and failures to act, Plaintiff Millard Ramsey is concretely and continuously harmed because he is compelled to adjust his fiscal affairs now to prepare himself to pay thousands of dollars over the next several years as required by the PPACA.

F. Millard Ramsey, American Citizen

56. Plaintiff Millard Ramsey is a member of LLF and serves on its Board of Directors.

57. Plaintiff Millard Ramsey hereby incorporates by reference all of the allegations set forth in this complaint as to the defendants' actions and failures to act and he objects to them as a member of LLF.

58. Millard Ramsey is a United States Citizen currently residing in Tennessee.
59. Millard Ramsey will serve as an adequate representative of the Class because his interests do not conflict with the interests of the members of the Class and the interests of the members of the Class will be fairly and adequately protected by Millard Ramsey.
60. As a direct and proximate result of the defendant's actions and failures to act, Plaintiff Millard Ramsey is concretely and continuously harmed because he is compelled to adjust his fiscal affairs now to prepare himself to pay thousands of dollars over the next several years as required by the PPACA.

DEFENDANTS

61. Defendant Barack H. Obama is an individual currently holding the office of the President of the United States. As President Defendant Obama is responsible for ensuring the proper execution of federal law. Defendant Obama is sued in his official capacity.
62. Defendant Harry Reid is an individual currently holding the office of the Majority Leader of the US Senate. Defendant Reid is sued in his official capacity.
63. Defendant Nancy Pelosi is an individual and member of the US House of Representatives. Defendant Pelosi is sued in her official capacity.
64. Defendant United States Department of Health and Human Services (HHS) is established by 5 U.S.C. § 101 and is an executive department of the United States government charged with the principal protection of the health of all Americans. HHS's duties involve administering portions of the PPACA.

65. Defendant Kathleen Sebelius is the Secretary of the United States Department of Health and Human Services is the principal authority within HHS. As HHS Secretary Defendant Sebelius is responsible for implementing, enforcing, and administering the PPACA. Defendant Sebelius is sued in her official capacity.
66. Defendant Eric Holder is the Attorney General of the United States of America. Defendant Holder heads the Department of Justice. He is the chief law enforcement officer of the federal government. As Attorney General Defendant Holder is charged with enforcing the civil and criminal laws of the United States, including 8 U.S.C. §1373. Defendant Holder is sued in his official capacity.
67. Defendant United States of America (hereinafter "US") is a political entity formed by and under the Constitution of the United States. Said Defendant was created for the sole purpose of serving the individual States and the people.

STANDING

68. All individual Plaintiffs have standing because they are individuals directly affected by the federal government's enactment and enforcement of the PPACA.
69. All individual Plaintiffs are presently and concretely harmed by the PPACA because they are compelled to adjust their fiscal affairs now to prepare themselves to pay thousands of dollars over the next several years as required by the PPACA. Through 2020 Plaintiffs will each be required to pay, at a minimum, a total of \$3,895. Most individual Plaintiffs will be required to pay more than \$3,895 depending upon income and number of dependants.
70. Many individual Plaintiffs are presently and concretely harmed by the PPACA because the PPACA has cause changes in health insurance coverage and availability

up to and including complete cancellation of existing coverage and denial of medical care. Statements and documents from thousands of individuals have been provided to Liberty Legal Foundation showing denial of health care as a direct result of the PPACA.

71. Many individual Plaintiffs are presently and concretely harmed by the PPACA because the PPACA has dramatically increased the cost of employing individuals and has dramatically increased uncertainty regarding such costs in the immediate future, resulting in loss of individual jobs, wholesale cuts in entire departments within certain larger businesses, and closure of other businesses. For example, plaintiffs in this action who were employees of SallieMae were laid off indefinitely due to the Federal government's takeover of the student loan industry. Also, statements and documents from thousands of individuals have been provided to Liberty Legal Foundation financial harm as a direct result of the PPACA.
72. Plaintiff LLF has standing as an association representing its members. This lawsuit is in accord with LLF's mission, described above, to defend basic human rights and challenge flawed court precedent. An association has standing to bring suit on behalf of its members when: a) its members would otherwise have standing to sue in their own right; b) the interests it seeks to protect are germane to its organization's purpose; and c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit. See *Hunt v. Washington State Apple Advertising Cmm'n*, 432 U.S. 333, 342 (1977). Plaintiff members of LLF have standing because they are directly affected by the federal government's enactment and enforcement of the PPACA. This lawsuit is germane to LLF's purpose because

protection of individual rights and state sovereignty as established in the Constitution is necessary for the protection of basic human rights. Participation of all LLF members is not required because LLF represents its members' common interests in opposing federal violations of federal law and the U.S. Constitution.

FIRST CAUSE OF ACTION

(Abuse of Authority)

73. The actions of the Defendants, as set forth in paragraphs 1-20 above, which are fully incorporated herein, are not within the scope of authority granted to the Defendants by the people of the United States, through the U.S. Constitution.
74. As a direct result of Defendant's abuse of authority, the Plaintiffs have suffered direct and immediate violations of their Constitutional rights and are therefore entitled to injunctive relief, declaratory relief, and damages, pursuant to Federal Rules of Civil Procedure 57 and 65 and 28 U.S.C. § 2201; to redress and remedy of the violations, and to prevent irreparable harm and future violations of their rights and the rights of others.

SECOND CAUSE OF ACTION

(Violation of 10th Amendment)

75. The actions of the Defendants, as set forth in paragraphs 1-20 above, which are fully incorporated herein, violate the explicit limitations placed upon Defendants authority by the 10th Amendment to the U.S. Constitution.
76. As a direct result of Defendant's abuse of authority, the Plaintiffs have suffered direct and immediate violations of their Constitutional rights and are therefore entitled to

injunctive relief, declaratory relief, and damages, pursuant to Federal Rules of Civil Procedure 57 and 65 and 28 U.S.C. § 2201; to redress and remedy of the violations, and to prevent irreparable harm and future violations of their rights and the rights of others.

THIRD CAUSE OF ACTION

(Breach of Oath of Office)

77. The actions of the Defendants, as set forth in paragraphs 1-20 above, which are fully incorporated herein, represent a breach of Defendants Obama's and Reid's duties contained within their oaths of office to protect and defend the U.S. Constitution.

78. As a direct result of Defendant's abuse of authority, the Plaintiffs have suffered direct and immediate violations of their Constitutional rights and are therefore entitled to injunctive relief, declaratory relief, and damages, pursuant to Federal Rules of Civil Procedure 57 and 65 and 28 U.S.C. § 2201; to redress and remedy of the violations, and to prevent irreparable harm and future violations of their rights and the rights of others.


RELIEF REQUESTED

WHEREFORE, plaintiffs respectfully request that this Court,

- 1) declaration that the actions of Defendants, as described herein, were and are unconstitutional, illegal, and void;
- 2) declare that the actions of the Defendants were in contravention of Plaintiffs' Constitutional rights;

- 3) issue an order granting permanent injunctive relief, including directives requiring the Defendants to halt enforcement of all aspects of the PPACA;
- 4) issue an order that finding *Wickard v. Filburn*, 317 U.S. 111 (1942) unconstitutional;
- 5) retain jurisdiction of this action to ensure compliance with this Court's decrees;
- 6) an order directing the Defendants to pay expenses and costs associated with the maintenance of this action;
- 7) an order directing Defendants to pay reasonable attorney's fees of the Plaintiffs; and
- 8) all such further relief as the Court may deem equitable, just, and proper.

Dated: 2/10/11



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Liberty Legal Foundation
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(865) 809-1505

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
 ARTHUR ENLOE; LIBERTY LEGAL FOUNDATION; DONNY HARWOOD;
 GERALD MAZA; BRIAN RUSHING; MILLARD RAMSEY; et al.

DEFENDANTS
 BARACK OBAMA; HARRY REID; NANCY PELOSI; U.S. DEPT. OF
 HEALTH & HUMAN SERVICES; KATHLEEN SEBELIUS; ERIC
 HOLDER; UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff Lubbock
 (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant _____
 (IN U.S. PLAINTIFF CASES ONLY)

(c) Attorney's (Firm Name, Address, and Telephone Number)
 Law Office of Van R. Irion
 9040 Executive Park Drive, Suite 223, Knoxville, TN 37923
 (865) 809-1505

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
 LAND INVOLVED.

Attorneys (If Known)

5-11CV0026-C

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

2 U.S. Government Defendant

3 Federal Question (U.S. Government Not a Party)

4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding

2 Removed from State Court

3 Remanded from Appellate Court

4 Reinstated or Reopened

5 Transferred from another district (specify)

6 Multidistrict Litigation

7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C 2201

Brief description of cause:
Constitutional Violation

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

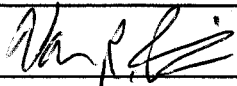
DEMAND \$ _____

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) (See instructions) PENDING OR CLOSED:

JUDGE _____ DOCKET NUMBER _____

DATE 02/10/2011

SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

LU004398

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February 10, 2011

U.S. District Court for the Northern District of Texas
Attn: Court Clerk
1205 Texas Avenue, Room 209
Lubbock, TX 79401

Re: New Matter, Pro Hac Vice Motion

To Whom It Concerns:

Please find enclosed two copies of a motion for admission pro hac vice, a proposed order granting admission pro hac vice, a civil cover sheet, a statement pursuant to FRCP 7.1, and a class action complaint. Summons for the defendants, SASE, and a check for the filing fee are also enclosed. Please file the complaint and other documents and return conformed copies and issued summons to me.

Please contact me immediately if you have any questions or concerns. Thank you.



Van R. Irion
Law Office of Van R. Irion, PLLC

