

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

ARTHUR ENLOE, et al.,

Plaintiffs,

CASE NO: 5-11CV0026-C

v.

BARACK OBAMA, et al.,

Defendants

**PLAINTIFFS' BRIEF IN SUPPORT OF MOTION TO FILE NOTICE OF
SUPPLEMENTAL AUTHORITY**

On June 29, 2011 the 6th Circuit, entered an opinion in the case entitled *Thomas More Law Center v. Obama*, 2011 WL 2556039. *Thomas More* is an appeal from the District Court of the Eastern District of Michigan's denial of a preliminary injunction prohibiting the Federal government from enforcing the individual mandate within the Patient Protection and Affordable Care Act (Obamacare). Due to the similar allegations and challenges to Obamacare, *Thomas More* contains facts and law similar to the facts and law relevant to a pending motion before this Court. The supplemental authority is attached to this motion.

Contrary to the Defendants' assertions in the instant case, both the District Court and the 6th Circuit found that the Plaintiffs in *Thomas More* had standing to challenge Obamacare. 2011 WL 2556039 at *2-*6. Facts alleged by Plaintiffs in the instant case are very similar to those plead by the *Thomas More* Plaintiffs. In fact, the language contained in Plaintiffs' complaint in the instant case was drafted after reviewing the complaint filed in *Thomas More* following the Michigan District Court's holding that the *Thomas More* Plaintiffs had standing to sue.

Also contrary to the assertions of the Defendants in the instant case, the 6th Circuit in *Thomas More* also concluded that the Anti-Injunction Act did not bar that suit because Obamacare is a regulatory act, and not a taxing act. *Id.* at *6-*8, *see also Id.* at *18 (“The individual mandate is a regulatory penalty, not a revenue-raising tax, for several reasons.”), Sutton, Circuit Judge, concurring.

The 6th Circuit’s opinions in *Thomas More* are additional authority in opposition to the Defendants’ motion to dismiss the instant case. The Plaintiffs respectfully request that this Court consider this recent, on-point, persuasive authority.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 7, 2011 I electronically filed the foregoing with the clerk of the Court using the CM/ECF system, which will then send a notification of such filing to the counsel of record for all parties.

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