United States
District of New Jersey

----------x Civil Docket No.3:10-CV-04814-GEB-DEA

Nicholas E. Purpura, *pro se*
Donald R. Laster Jr. *pro se*
et al.

Plaintff

v.

.

Individually & in their Official Capacity

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES;
KATHLEEN SEBELIUS, in her official capacity Individually & in their Official Capacity as the Secretary of the United States, Department of Health And Human Services;
UNITED STATES DEPARTMENT OF THE TREASURY;
TIMOTHY F. GEITHNER, in his official capacity as the Secretary of the United States Department of the Treasury;
UNITED STATES DEPARTMENT OF LABOR; and HILDA L. SOLIS, in her official capacity as Secretary of the United States Department of Labor,

Defendants.
----------x

ORDER TO SHOW CAUSE FOR A RESTRAINING ORDER AND REARGUMENT FOR AN IMMEDIATE STAY (Recall and Vacate prior denial) AND OR A SUMMARY JUDGMENT

VIOLATION
Title 28 U.S.C. 1331
&
CIVIL RIGHTS
Request For
Declaratory Judgment

Let Defendants Show why a Restraining Order and or Summary Judgment should not be issued to preserve the *status quo* pending a hearing on this preliminary injunction based upon the affidavit and verified complaint.

Plaintiffs contend the Complaint filed on September 20, 2010 qualifies for an immediate Stay since the breath of the Complaint is Public Interest litigation. And the current request that Defendants "cease and desist" from implementing any further sections of Senate originated bill H.R.3290 is warranted.

Plaintiffs again allege and proven in their affidavit theirs more than a substantial likely-hood of success based upon the merits set forth within the 15-count Complaint and not limited to the Affidavit submitted herein. Plaintiffs are of the belief it was sufficiently demonstrated the Healthcare "Act" (hereafter Act) originated in the Senate; H.R.3590 violates the Constitutional authority granted the legislature. Therefore this Honorable Court in the interest of substantial justice will address such serious Constitutional challenges presented by "*We the people*" Petition.

This request for a Stay causes no risk or harm to the Defendants, if anything the risk of harm endangers Plaintiffs as the public as a whole. This preliminary injunction is to preserve the status quo pending trial on the merits alleged in filed complaint 3:10-CV-04814-GEB-DEA 3:10.

The potential claim of irreparable injury perhaps the single most important prerequisite for issuance of a preliminary injunction, and said harm has already begun. When on September 24, 2010 various sections of the unconstitutional Act began to be implemented, but not limited too.

Defendants are required to answer this Show Cause Order within 20-days or within ____days determined by the Court. A Temporary Stay will remain in effect until this Court can hear argument. Failure on Defendants to show an affirmative reason why said Stay should not be granted or said Stay harms Defendents this Stay will remain in effect until a final judgment is determined.

To: Ethan P. Davis, et el
U.S. Department of Justice
Civil Division
20 Massachusetts Ave. N.W, Rm. 7320
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Plaintiffs: Nicholas E. Purpura, 1802 Rue De La Port. Wall, NJ 07719 732-449-0856
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_____
So ORDERED
The Honorable Judge Freda. L. Wolfson

United States District Court
District of New Jersey

----------x

Civil Docket No.3:10-CV-04814-GEB-DEA

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Plaintiffs

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KATHLEEN SEBELIUS, in her official capacity Individually & in their Official Capacity as the Secretary of the United States, Department of Health And Human Services;
UNITED STATES DEPARTMENT OF THE TREASURY;
TIMOTHY F. GEITHNER, in his official capacity as the Secretary of the United States Department of the Treasury;
UNITED STATES DEPARTMENT OF LABOR; and HILDA L. SOLIS, in her official capacity as Secretary of the United States Department of Labor,

Defendants.

----------x

REPLY AFFFIDAVIT
IN SUPPORT
ORDER TO SHOW CAUSE
FOR A RESTRAINING ORDER
AND OR
REARGUMENT FOR AN
IMMEDIATE STAY
(Recall and Vacate prior denial)
AND OR SUMMARY JUDGMENT
VIOLATION
Title 28 U.S.C. 1331
&
CIVIL RIGHTS
Request For Declaratory Judgment

1. Before this Court, as a threshold matter, does the Constitution of these United States still have meaning? Unlike any action brought before the Judiciary no "Act" in American history could have a more profound and injurious impact on the States, individuals, and businesses in these United States by its blatant shredding of the U.S. Constitution.

2. It appears Defendants and this District Court (Trenton) New Jersey fail to comprehend the ramification of this unconstitutional legislation. The cavalier parroted denial of the Temporary Restraining Order requested by "*We the people*" (Plaintiffs') based upon a vacuous 2-page argument submitted by Defendants was/is a travesty of justice especially in light of the irrefutable evidence presented. Coupled with the denial of proper judicial procedure, it is shocking to one's sense of fairness!

3. It is the sworn duty of the Court to adhere to standard customary judicial procedure and to be governed by statutory direction especially concerning procedural "*due process.*" Obviously the New Jersey District Court intentionally deviated from the normal and customary procedure when; (1) failing to sign a TRO without explanation; and, (2) Chief Judge Garrett E. Brown ordered Plaintiffs to deliver an unsigned TRO to Defendants over Plaintiffs protest that it was without validity.

4. Thereafter, this same Court ignored the peoples' TRO until after Defendants responded. Then on that same day the Court received Defendants response, the Court summarily sent out an Order denying Plaintiffs TRO without a hearing or even signing the instrument (TRO). Again, parroting the Defendants' response, making the same unsupported claim that Plaintiffs request does not serve the public interest to warrant a stay. The Court, to appear judicial, has even cited and misrepresents Miller v. Mitchell 598 F.3d 139 (3d Cir. 2010) that in reality favors the Plaintiffs. If the Court bother to read the citation thoroughly would have concluded the ruling restricts coercive Government intrusion. Exactly what H.R. 3290 mandates concerning issues of family authority and responsibility. Clearly the "Act" within itself is coercive since it mandates punishment for refusing to purchase a Government mandated product.

5. From the inception of this "Act" the majority of the people in the United States oppose and to date continue to oppose this unconstitutional and intrusive "Act." Based upon poll after poll, including October polls taken by Rasmussen and the Kaiser Foundation, demonstrate as do others, Americans continue to oppose the "Act," thus supports Plaintiffs' claims. Clearly the arbitrary and capricious denial to allow "We the people" an opportunity to responded was a blatant denial of justice and proper due process.

6. Obvious, the Court actions in this matter, in what could be considered a judicial con-game, mailed their Order prior to Plaintiffs even receiving Defendants response! What's is more disconcerting Plaintiffs were served by mail with Defendants response at 4 PM on October 21, 2010, thereafter Plaintiff *pro se* alerted the Court and was given assurance by the Judge Wolfson's Law Secretary at 9:21 AM on October 22, 2010 that Plaintiffs *pro se* would be given ample time to reply. On the very same day October 22, at 4 PM Plaintiff received the Courts denial which was post-marked (if there be any question) by the United States Post Office October 20, 2010 but signed as being posted and docketed at the New Jersey District Court October 19, 2010. Prior the Court ignored all written requests to have the TRO that was filed on October 1st 2010, signed without any explanation or legal reasoning for 20-days. Yet this same Court issued an Order denying Plaintiffs' TRO hours after receiving Defendants procedurally infirm response. Clearly, one has to question the integrity of the judicial process in the Trenton New Jersey Federal District Court as the arbitrary, capricious behavior, and bias that "*We the people"* (plaintiffs) have thus far been subjected too.

7. The Court in *Murbury v Madison* concerning oath of office, held:

> "*... it is apparent, that the framers of the constitution contemplated [oath, my emphasis] that the instrument as a rule of government of courts, as well as of the legislature. Why otherwise does it direct the judges to take an oath to support it? This oath certainly applies in an especial manner to their conduct in the office and character. How immoral to impose it on them, if they were to be used as the instrument, and the knowing instruments for violating what they swore to support.*
>
> *The oath of office, too, imposed by the legislature, is completely demonstrative of the legislative opinion on the subject. It is in these words: "I do solemnly swear, that I will administer justice, without respect to persons, and do equal right to the rich and poor; and that I will faithfully and impartially discharge all the duties incumbent on me as ----, according to the best of my abilities and understanding, agreeably to the constitution and laws of the United States, Why does a judge swear to discharge his duties agreeably to the constitution of the United States, if that Constitution forms no rule for his government? If it is closed upon him, and cannot be inspected by him? If such a real state of things, this is worse than solemn mockery. To prescribe, or to take an oath, becomes equally a crime*."

Note: Respectfully, your Honor took an oath uphold the United States Constitution and the integrity of the judicial system. "*We the people*" pray that any future motion practices will not mirror what has previously taken place.

8. Plaintiffs will address each point of the four (4) presented in Defendants request for the denial of a Temporary Restraing Order, not-with-standing the procedurally infirm violations of judicial procedure that demand the Court "recall and vacate" the Order issued on October 19, 2010!

9. For the following reasons listed below mandate; if justice is to have any meaning a permanent Restraining Order must be issued until this matter is fully and fairly adjudicated.

10. Defendants put forth the unsupported claim Plaintiffs failed to demonstrate: (1) "*a likelihood of success on the merits*; (2) *he or she will suffer irreparable harm if the injunction is denied*; (3) *granting relief will not result in even greater harm to nonmoving party; and* (4) *the public interest favors such relief*." is not only ludicrous, but reveals defendants lack of substance, fact, and law.

Note: Defendants had the audacity to claim, as did and noted in Judge Wolfson's Order that the *pro se* Plaintiffs failed to properly serve the United States Attorney General, though they failed to ask for a dismissal based upon said technicality. The "*We the people*" Plaintiffs say that service was sufficient for the following reasons: 1. This Court ordered Defendants to be served as submitted; (2) it's public knowledge the Department of Health established a special department to accept all legal objection to the "Act"; (3) the Court fully recognized and accepted the Complaint and TRO as is, and electronically forwarded Complaint and Show Cause Order to the Department of Justice which represents the Defendants; (4) Defendants accepted Complaint and TRO without legal objection, therefore ratified said legal motions in performance! Defendants acknowledge and accepted service makes evident in their (procedurally) infirm request for dismissal of the TRO; Defendants by their own admission accepted the instruments stating to the Court, they would: "*demonstrate in subsequent briefing that each of the fifteen counts of plaintiffs' complaint is meritless*." (Saying nothing whatsoever about procedural policy) Clearly, these factors' ratifies the action and intent of the parties that must be gleaned from within the four corners of the instruments to dismiss on any technicality, there can be no ambiguity concerning the action or the intent of the parties.

11. Apparently Defendants and Court failed to read "We the peoples'" Plaintiffs' Petition and are also oblivious that "*law of the case*" is/has been established in federal actions that mirror the "*We the people*" (Plaintiffs) Petition concerning numerous counts. Surely the Court must recognize that established precedent related to the issues at bar should/must be considered binding on all other judges of coordinate jurisdiction. Especially when supported by Supreme Court & Circuit Court precedent.

12. Defendants allege Plaintiffs' failed to satisfy the second factor, to present evidence to demonstrate any irreparable harm or injury-in-fact.

13. Defendants and the Court should be aware that the mere allegation of injury is sufficient to withstand a motion to dismiss either the Complaint or the TRO. Defendants argued in paragraph 2 in their quasi-procedurally infirm motion citing: Southern New England Tel. Co. v. Global NAPs, Inc. & TES Franching, LLC v. Dombach, that held *"[A] failure to demonstrate irreparable injury must necessarily result in the denial of a temporary restraining order.* (Internal citation and quotation marks omitted)", that there was no imminent harm. Even to suggest Plaintiffs Petition is comparable to the cited cases has as much in common with the issues at bar as Penguins dwelling in Miami.

Special Note: Before continuing, when the Constitution of these United States is violated no greater harm exists to the Republic, that being said:

14. Defendants misled the Court by implying said harm does not take effect until January 1, 2014, expecting the Court to disregard prior precedent recently held by the Federal Court that again, should be binding on all other judges of coordinate jurisdiction: see Babbitt v. United Farm Workers Nat'l Union, 442 U.S. 289, 298, 99 S. Ct. 2301, 60 L. Ed. 2d 895 (1979) (citations and brackets omitted) expressly held:

> "*[P]laintiffs here have alleged when and in what manner the alleged injuries are likely going to occur. Immediacy requires only that the anticipated injury occur with some fixed period of time in the future, not that it happened in colloquial sense of soon or precisely within a certain number of days, weeks, or months*."

15. The Honorable Roger Vinson, Senior United States District Judge went on to note that Defendants conceded; "*that an injury does not have to occur immediately*" Def. Memo. at 27. ORDER AND MEMORANDUM OPINION, October 14th 2010 , Case 3:10-cv-00091-RV-EMT held:

> "*Standing depends on the probability of harm, not its temporal proximity. When injury… is likely in the future, the fact that [the complained of harm] may be deferred does not prevent federal litigation now*."

16. The Honorable Judge Vinson cited: Village of Bensenville v. FAA, 376 F.3d 114 (D.C. Cir 2004) in which Plaintiffs in that action challenged a harm scheduled to be imposed **thirteen years** in the future, saying; (see complete reasoning Order & Memorandum @ 33-35):

> "*District Court of Columbia Circuit held that, despite the significant time gap, there was an "impending threat of injury" to plaintiffs that was "'sufficiently real to constitute injury-in-fact and afford constitutional standing"*"

As Judge Vinson stated in short, citing, Babbitt, supra 442 U.S .at 298,:

> "*to challenge the individual mandate, the individual plaintiffs need not show that their anticipated injury is absolutely certain to occur despite the "vagaries" of life;* [Plaintiff *pro se* is 68], not taking into account the many others that sign on] *they need merely establish "a realistic danger of sustaining a direct injury as a result of the statute's operation or enforcement*,"

17. More importantly, Judge Vinson cites Pierce v. Society of Sisters, 268 U.S. 510, 450, 45 S. Ct 571, 69 L. Ed.2d 1070 (1925) that held:

> "*....the Supreme Court found that it had standing to consider the challenge, notwithstanding the universe of possibilities that could have occurred between the filing of the suit and the law going into effect years later. The Court concluded that it was appropriate to consider the challenge because the complained of injury "was present and very real, not a mere possibility in the remote future," and because the [p]revention of impending injury by lawful action is a well-recognized function of courts of equity." Id. at 536*."

18. If the above is not enough, to mandate the government "cease and desist" until all the litigation has been adjudicated "*We the people*" demand Defendants dispute the irreparable harm, taking place at this very moment that is costing every American unnecessary expenses for:

a) the creation of no less than 150 agencies and/or bureaucracies;
b) federal employees are drafting regulation that will impact every American citizen;
c) insurance premiums are skyrocketing out of control and effect every State, individual and business as a result of the unconstitutional mandates in the "Act";
d) the IRS is preparing/or currently hiring and training IRS agents to enforce this "Act" prior to the Courts rendering a decision on the constitutionality of the Act" itself.

19. The question that begs an answer, if the above are not real and present no harm just who is paying for these expenses? As not these expenditures costing the taxpayers and increasing the national debt? All prior to any definitive Court ruling as to whether the Senate originated "Act", H.R. 3590, is even constitutional? Enough said concerning harm.

20. Defendants' hubris knows no bounds, claiming they will demonstrate in subsequent briefings why Plaintiffs' complaint is meritless. Instead of supporting their bluster and bravado, Defendants failed to explain to the Court how the "*We the peoples"* (Plaintiffs') Petition is meritless or that Plaintiffs are wrong. Instead, Defendants, in Saul Alinsky fashion, ridicule Plaintiffs allegation that Senate-originated H.R. 3590 "*renders the Judicial branch of our government irrelevant*" makes obvious Defendants' counsels (6-in all & God knows how many behind the scenes) failed to read the "Act" or comprehend the consequences and dangers to the Republic. In short, this unconstitutional legislation exempts the government from adhering to existing anti-trust law, and specifically forbids any judicial review. The "Act" states:

> "*No company can sue the government for price fixing, No "judicial review" is permitted against the government monopoly."*

21. On its face, does not this provision render the judiciary irrelevant? Should not Defendants have had to put forth an affirmative defense to justify the rendering of Amendment 5 "*null and void*." To the peoples knowledge no Amendment has been added to the Constitution that eliminates the right to judicial review and/or redress in a Court of law! Are Defendants also asserting Amendment 1 has also been rendered irrelevant since pursuant to this "Act" the public can no longer Petition the government for *redress of grievances*? (See Amendment 1 of the U.S. Constitution)

22. Contrary to Defendant's assertions that the "*We the people*" Petition is meritless, the likelihood of our success is assured based upon the facial Constitutional challenges. "*We the people*" remind the Court; if the people prevail on a single Count concerning any unconstitutional provision cited by Plaintiffs inserted in the "Act," the entire legislation must be rendered "*null and void*"! It is without argument the Senate failed to insert a sever-ability clause. That is if our judiciary hasn't already been transformed into a Venezuela like Banana Republic.

Before proceeding further, it behooves the Court to read the last paragraph in *Marbury v. Madison:*

> *"Thus, the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that the law repugnant to the constitution is void; and that courts, as well as other departments, are bound by that instrument."*

23. That being said "*We the people*" will now address each Count that Defendants claim are meritless:

A). Plaintiffs COUNT 1, in-of-itself (not alleged by the 16-State Attorneys' General, or 4-State Governors' attorneys) undeniably demonstrates the Senate violated Article 1, Section 7 Paragraph 1 void Constitutional authority. Clearly, the Senate is without authority to raise revenue, only the House of Representatives is granted this authority. This unconstitutional "Act" originated in the Senate "*We the people*" (Plaintiffs) respectfully direct the Court to reference Case 3:10-cv-00091-RV-EMT, in which the Honorable Judge Vinson, Senior United States District Judge, unambiguously notes (as claimed in the peoples' Petition) that the Act originated in the Senate when discussing the history and taxes of the legislation (see Memo/Order p. 13):

> "*...that on October 13, 2009, the Senate Finance Committee passed the bill titled "America's Healthy Future Act" (S.1796) A precursor to the Act, this bill contained an individual mandate and accompanying penalty. In section titled "Excise Tax on Individuals Without Essential Healthcare Benefits Coverage," the penalty was called "tax." See Section 1301 (If an applicable individual fails to [obtain required insurance] there is hereby imposed a tax")"*

As previously alleged in "*We the people's*" (Plaintiffs) Petition the Court must concluded the Senate originated "Act", H.R. 3590. "generates" Tax revenue and then only as an incident to some persons' failure to obey the law is unconstitutional! What's more, its suffice to conclude Judge Vinson memorandum, See pages 13-15, Fla. Memo/Order went on to confirm the later final version of the healthcare legislation passed by the Senate on December 24, 2009 – did not call the failure to comply with the individual mandate a "tax"; it was instead called a "penalty." Plaintiffs allege, proclaim and prove in their Petition the Senate, with the House of Representatives' collusion, committed a "bait and switch" substituting their Health-care legislation into the real House originated revenue

raising H.R. 3590 (See Plaintiff's Count 1 of petition). A "fraudulent deception" perpetrated on the public (plaintiffs) concerning a tax or "*revenue raising*" bill originated by the Senate. Significant and noted by Judge Vinson (see Memo/Order, page 14):

> "*Congress's failure to call the penalty a "tax" is especially significant in light of the fact that the Act itself imposes a number of taxes in several other sections (see, e.g., Excise Tax on Medical Devices Manufacturers, sec. 1405 ("There is hereby imposed on the sale of any taxable medical device by the manufacturer, producer, or importer a tax"); Excise Tax on High Cost Employer-Sponsored Healthcare Coverage, sec. 9001 ("there is hereby imposed a tax") Additional Hospital Insurance Tax on Indoor Tanning Service, Sec. 10907 (There is hereby imposed on any indoor tanning service a tax")). This shows beyond question that Congress knew how to impose a tax when it meant to do so. …"*

Arguably any tax imposed by H.R. 3590, a Senate originated bill, is unconstitutional, to argue further at this juncture is unnecessary, other than to say, the Court is bound to strict interpretation of the Constitution. If there be any question on the issue of origination Judge Vinson, Senior United States District Judge, reiterated on page 20 of his "Memorandum and Order" the history of the Senate's H.R.3590,:

> "*To the extent there is statutory ambiguity on this issue, **both sides ask that I look to the Act's legislative history** to determine if Congress intended the penalty to be a tax. Ironically, they rely on the same piece of legislative history in making their respective arguments, to wit, the 157-page "Technical Explanation" of the Act that was prepared by the Staff of the Joint Committee on Taxation on March 21, 2010 (the same day the House voted to approve and **accept the Senate bill** and two days before the bill was signed into law)."*

Please Take **Special** Judicial Notice: This evidence in-of-itself would justify the Court issuing a Summary Judgment in favor of the "*We the people*" (Plaintiffs) Petition based upon the violation of the United States Constitution. By law, the U.S. Constitution trumps any argument Defendants could hope to put forth! Most importantly, the only reason Judge Vinson, a learned Jurist, could not rule on this issue was because it was not before the Court! "*We the peo*ple" request this Court to issue that Summary Judgment in favor of the people and let Defendants appeal if they can miraculously circumvent the United States Constitution. That is if Her Honor has the courage to adhere to the oath She swore and be the lone judicial sentential along with the people in defense of the Constitution!

B). COUNT 2, Commerce Clause violates Article 1, Section 8, Paragraph 3, defendants have unsuccessfully been able to have any action dismissed either in Michigan, Virginia, or Florida for lack of standing, therefore it is without argument. Plaintiffs Count 2 must

be adjudicated since Plaintiff arguments are spread throughout the Petition and coincide with those actions that have standing are being adjudicated in other Federal Courts;

C). COUNT 3, Violates Article 1, Section 8, Paragraphs 12, 14, 15, and 16, to include the '*Posse Comitatus* Act. Again, an affirmative defense is required by defendant rather than the mere rhetorical diatribe submitted by defendants;

D). COUNT 4, 5, clearly violates Article 1, Section 9, Paragraphs 4, 5, and 6 were clearly articulated in Count 1, but not limited to, will elaborate following Defendants written argument;

E). COUNT 6, speaks for itself, as does the Constitution of these United States, See Article 2, Section 1, Paragraph 5. That being said, Plaintiffs cite Supreme Court precedent yet to be overturned! In short, even the current individual exercising Presidential authority has acknowledge his infirmity to exercise said authority in his own writings as well as the writing of his supporters. Please refer "*We the People*" Count 6, pages 18 through 20, citing Supreme Decisions that support and prove "*We the peoples*" Plaintiffs' argument. More significant the Library of Congress supports Plaintiffs' argument as will be demonstrated following Defendants' reply. Again, "*We the people*" Plaintiffs remind the Court; *Marbury v. Madison,* held:

> *"Thus, the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that the law repugnant to the constitution is void; and that courts, as well as other departments, are bound by that instrument."*

F). COUNT 7, Violates Amendment 16 by taxing the same income twice. The "Act" levies additional taxes on an individual's income in addition to the existing and constitutional tax authorized by Amendment 16. These taxes are clearly in violation of Article 1, Section 9, Paragraph 4, and while these taxes are based upon an individual's income they are not a tax authorized by Amendment 16. Amendment 16 does not authorize anyone to have their income taxed multiple times.

G). COUNT 8, Violates Amendment 4 and the current HIPPA Legislation by allowing the various Government agencies access to an individual's personal records, banking records, medical records, various income and non-income tax records for the purposes of imposing and forcing individuals to purchase the Government mandated insurance product. Yet the existing legislation requires any holder of a person's personal records to

keep such records secure for all comers unless in response to a validly executed search warrant pursuant to a criminal indictment or other criminal investigation. Thus the "Act" forces those charged with protecting personal information to commit crimes at the behest of the Government in the Government's attempt to enforce an unconstitutional mandate.

H). COUNT 9, Violates Amendment 5 by imposing on individuals who do not purchase the unconstitutionally mandated health insurance coverage penalties without the benefit of trial. And under the implied threat of action by the Internal Revenue Service if the required penalties are not paid with an individual's Amendment 16 mandated income tax return. The Defendants' cited case of "**Miller v Mitchell**" was about the same thing – **Extortion by the State**. This is clearly an action prohibited by Amendment 5 which requires that if a person is going to be subjected to any fine or penalty one must be given "due process of law".

The law clearly subjects individuals to involuntary servitude, a form of slavery, to the Government, of which usage is restricted specifically to the punishment of "**crimes whereof the party shall have duly convicted**." When one takes an honest look at the "individual mandate" specified in the "Act", the actual definition of the phrase "involuntary servitude", the words "involuntary" and "servitude" themselves, the "Act" clearly violates Amendment 13 of the U.S. Constitution. Nor does the Supreme Court Ruling *United States v. South-Eastern Underwriters Association (322 U.S.9 533 (1944))* cited by the "Act" grant Congress the authority via judicial fiat to force individuals to purchase insurance of any sort. It is a case about the regulation of real and actual commerce among the Sovereign States in regards to **PRICE FIXING and EXTORTION**!

I). COUNT 10, Violates Amendment 14 multiple places through the "Act". All one has to do is to read the "Act". The "Act" grants exceptions based upon membership in religious groups, residence, economic conditions, age, personal, ethnicity, employment and capricious decisions of Government officials. If Defendants take the time to read the "Act" the violations of Amendment 14 are obvious. As are the violations of Article 1, Section 8, Paragraph 1, Article 1, Section 9, Paragraph 4, and Article 4, Section 2, Paragraph 1.

J). COUNT 11, Violates Amendment 1 by granting "religious conscience exemptions" to individuals not based on the individual's personal beliefs, but on their membership in an officially recognized religious sects and organizations. This is clearly an obvious violation of Amendment 1 which explicitly states "*Congress shall make no law respecting* (i.e. regarding) an *establishment of religion."* Considering the public opposition to this unconstitutional Senate "Act" granting a true conscience objector exemption would prevent the implementation of the provisions of this "Act".

K). COUNT 12, Violations have been addressed above paragraphs 20 - 22.

L). COUNT 13, Violates Title VII Civil Rights, Anti-Trust statute & Amendment 14; See the brief which details the violations of the U.S. Constitution.

M). COUNT 14, violates Article 6; Theses violations of the Senators and Representatives were covered in the brief and in this response.

N). COUNT 15, violates Article 1, Section 8 and Amendment 10. As was clearly shown in the brief and by current rulings Congress only has those power that were granted by the Sovereign States of the Union. There is no grant of authority in Article 1, Section 8, Amendment 16 or any other section of the U.S. Constitution granting Congress the authority to force anyone to purchase a product. Nor did the Sovereign States grant the General Government said authority. What has been lost over the years is that the word "State" describes a "Nation" and that the term "Nation State" was shortened to "Nation". Nothing in the U.S. Constitution gives the General Government authority to command the States to supply a product to its citizens, its employees or contractors. The phrase "To regulate Commerce ... among the several States" can be written as "To regulate Commerce ... among the several Nations". Nor does the word "among" imply "in". Would Venezuela, Canada, Russia, Iran or any other country allow their internal commerce to be regulated? Nor can Article 1, Section 8, Paragraph 1 be used to justify this unconstitutional intrusion into the realm of State authority and dictating of products to be purchased by the people. Even "United States v Butler, 297 U.S. 1 (1936)" prohibits the type of activities being promulgated by the "Act". The "Act" levies taxes specifically to supply a product by taxing others. The Exchanges, taxes on inferior and superior health care plans and the other provisions of the "Act" are clearly intended to engage in specific welfare and not general welfare as authorized by the U.S. Constitution.

In Conclusion

"*Eternal vigilance is the price of liberty*."

Defendant's arguments are symbolic of the arrogance demonstrated by the current Administration. To quote Judge Moore

> "*The highest law in this country is not the order of the Supreme Court of the U.S., not the order of the commander in chief, or any subordinate officer, Instead it is the Constitution… The Constitution is the supreme law of the land; it's not the order of a higher officer, not the order of a judge."*

WHEREFORE, Petitioners prays this Honorable Court grant an Immediate Restraining Order until Defendant constitutionally demonstrate to this Court that a permanent Stay should not be enforced until adjudication of the Constitutional challenges presented. And, also the "*We the*

people" (plaintiffs) request this Court expedite this and the Complaint to any opening date that may become available, as soon as possible.

i. Issue an immediate Summary Judgment rendering Senate originated H.R. 3590 unconstitutional based up the lack of authority proven in "*We the people*" Petition and fully outline in this Motion for re-argument; or in the alternative;
ii. Issue a signed stay that mandates defendants cease and desist from all activity related to the Senate originated H.R. 3590 the current "*Healthcare*" bill until the Court has an opportunity to address all the evidence presented herein;
iii. Immediately open a hearing to take place on whether the actions of said Defendants were/are inconsistent with the U.S. statutes and/or offensive to the U.S. Constitution and Bill of Rights; and, that the "*We the people*" Petition mandates an affirmative reply addressing each Court as outline in this motion and the peoples' pleadings;
iv. And, any further relief that is just and proper to include costs and legal fees!

Respectfully submitted,

_____ _____

Nicholas E. Purpura,
pro se,

Donald R. Laster Jr.
pro se.

Date: October 23, 2010