

Reaction to ObamaCare lawsuit moving forward

Mon, 10/18/2010 - 3:34pm | posted by Jason Pye

Like

Be the first of your friends to like this.

Over at [Cato @ Liberty](#), Ilya Shapiro [responds](#) to the [news of a federal judge allowing a challenged by 20 states](#) to move forward:

Yes, Speaker Pelosi, the constitutional concerns people have with the health care legislation you rammed through Congress despite overwhelmingly negative public opinion are serious. The Florida court's ruling, denying the government's motion to dismiss the challenge to the new health care law brought by 20 states and the National Federation of Independent Business, mirrors the one we saw in July in Virginia's separate lawsuit. These have been the most thoroughly briefed and argued lawsuits, so these significant and lengthy opinions conclusively establish that the constitutional concerns raised by the individual mandate and other provisions are serious. Nobody can ever again suggest with a straight face that the legal claims are frivolous or mere political gamesmanship.

And that should come as no surprise to those who have been following the litigation because the new law is unprecedented — quite literally, without legal precedent — both in its regulatory scope and its expansion of federal authority. Never before have courts had to consider such a breathtaking assertion of raw federal power — not even during the height of the New Deal. “While the novel and unprecedented nature of the individual mandate does not automatically render it unconstitutional,” Judge Vinson observed, “there is perhaps a presumption that it is.”

This means at the very least that “the plaintiffs have most definitely stated a plausible claim with respect to this cause of action.”

Just so — and the deliberate consideration that these district courts are giving to these serious constitutional arguments (unlike the Michigan judge's perfunctory treatment last week) indicates that the probability that the Supreme Court will ultimately strike down the individual mandate continues to increase.

You can read Judge Roger Vinson's opinion [here](#).

Here is video of Florida Attorney General Bill McCollum discussing the case and what it means to states challenging the federal government:



Related Posts

- [FL-8: Orlando Sentinel endorses Dan Webster](#)
- [Hidden costs of ObamaCare](#)
- [ObamaCare lawsuit to move forward](#)