



## The orthodontist behind the next big Obamacare legal fight

By Susan Ferrechio

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While Democrats and Republicans on Tuesday cheered dueling court rulings on the legality of Obamacare subsidies, a conservative watchdog group has been preparing for the next big court case challenging the health care law.

The U.S. Court of Appeals for the Eleventh Circuit on Monday scheduled oral arguments for the second week in October in the case of a Florida orthodontist who is suing the Obama administration for delaying the employer mandate.

Dr. Larry Kawa, who owns and operates Kawa Orthodontics in West Palm Beach, said his office lost \$1.2 million in earnings after setting aside 100 hours to plan compliance with the 2014 employer mandate, which was to require big companies to either provide health insurance to employees or pay a fine.

In July 2013, President Obama announced the employer mandate would be delayed a year and he later extended the date again, to 2016.

Kawa, represented by the D.C.-based Judicial Watch, filed suit in October 2013, seeking to have the 2014 employer mandate reinstated. The case was tossed out three months later by a U.S. District Court in West Palm Beach, but last week it was allowed to move forward by the Eleventh Circuit Court in Atlanta.

“It’s a good indication that this case is proceeding apace,” Tom Fitton, the president of Judicial Watch, told the *Washington Examiner*. “This is where the rubber is going to meet the road in a challenge to Obama’s lawlessness on Obamacare.”

Obama has altered the health care law dozens of times. The changes have earned widespread criticism from GOP opponents of the law who say the president is overstepping his executive authority and adding delays and changes to Obamacare for political reasons.

The House this month is expected to vote on a resolution authorizing lawmakers to sue the administration over the move to delay the employer mandate.

Skeptics say the suit, driving by the GOP leadership, won't go far because it will be difficult to prove how Obama's decision to delay the employer mandate harmed Congress.

Fitton said Kawa, whose lawsuit cites monetary loss, won't have that problem. "He has standing," Fitton said, "and the trick is to get someone with standing."

Michael Tanner, a health care policy expert at the libertarian Cato Institute, said the Kawa case might remain entangled in the courts well into 2016, when the employer mandate is supposed to take effect.

But the case is poised to make a critical determination, Tanner said, "in terms of laying down a marker as to what the president can or can't do when implementing laws. That would be important."