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## "If you're talking about the regulation of economic activity, the presumption of constitutionality is for all practical purposes irrebuttable"

*Damon W. Root* | July 26, 2010

Saturday's *Wall Street Journal* featured a great profile of libertarian Georgetown law professor Randy Barnett. There's lots of interesting stuff here, from Barnett's long battle to revive constitutional protections for economic liberty to his current fight against ObamaCare's individual mandate. A snippet:

"The challenges to ObamaCare are serious legal challenges within the existing doctrinal framework," Mr. Barnett says. "They are not an attempt to restore the lost Constitution."

That's why the "individual mandate"—the requirement that all Americans purchase medical insurance or pay a fine—has been the focus of the lawsuits by state attorneys general seeking to overturn ObamaCare. (Mr. Barnett wrote a friend-of-the-court brief with the Cato Institute, a libertarian think tank, in support of the Virginia attorney general's lawsuit.)

Such a mandate is unprecedented: "This is the first time in American history that Congress has claimed to use its power over interstate commerce to mandate, or require, that every person enter into a commercial relationship with a private company," Mr. Barnett notes. "As a judicial matter, it's also unprecedented. There's never been a court case which said Congress can do this."

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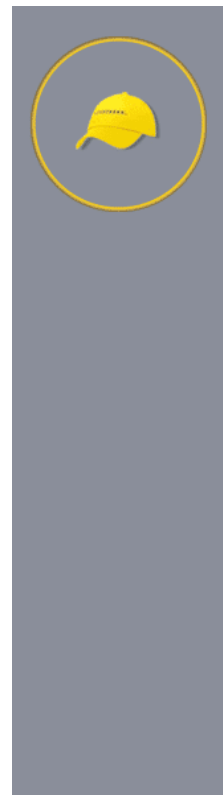


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