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5 Attorneys for Plaintiffs

6 **IN THE UNITED STATES DISTRICT COURT**

7 **FOR THE DISTRICT OF NEVADA**

8
9 PEOPLE V.US, INDEPENDENT
10 AMERICAN PARTY OF NEVADA,
11 NEVADA EAGLE FORUM, TONY DANE,
12 Joshua Hansen, JANINE HAWKINS, GALE
13 CARLTON, , TRACIE PISTOCCO, IVY
14 HIPPLER, Christopher Hansen, MICHAEL
15 HAWKINS, and LYN RANDAL,

13 Plaintiffs,

14 vs.

15 BARACK H. OBAMA, in his official capacity
16 as President of the United States,

17 UNITED STATES DEPARTMENT OF
18 HEALTH AND HUMAN SERVICES, an
19 executive department of the United States,

20 KATHLEEN SEBELIUS, in her official
21 capacity as the Secretary of the U.S.
22 Department of Health and Human Services,

23 UNITED STATES DEPARTMENT OF
24 TREASURY, an executive department of the
25 United States,

26 TIMOTHY F. GEITHNER, in his official
27 capacity as the Secretary of the U.S.
28 Department of the Treasury,

ERIC H. HOLDER, JR., in his official
capacity as the Attorney General of the United
States, and

the UNITED STATES OF AMERICA

Defendants.

CASE NO. :

**CLASS ACTION COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF**

1 Plaintiffs PEOPLE V. US (“PEOPLE”), the INDEPENDENT AMERICAN PARTY OF
2 NEVADA (IAP), NEVADA EAGLE FORUM (EAGLE), TONY DANE, Joshua Hansen,
3 JANINE HAWKINS, GALE CARLTON, TRACIE PISTOCCO, IVY HIPPLER, and
4 Christopher Hansen, MICHAEL HAWKINS, and LYN RANDAL on behalf of themselves and
5 all others similarly situated, by and through their undersigned counsel Joel F. Hansen of Hansen-
6 Rasmussen, Attorneys at Law, bring this Class Action Complaint for declaratory and injunctive
7 relief against the above-Defendants, their employees, agents, and successors in office, and in
8 support thereof allege the following upon information and belief.

9 **JURISDICTION & VENUE**

10 1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §
11 1331 because this action arises under the Constitution and laws of the United States (federal
12 question jurisdiction) and 28 U.S.C. § 1346 (jurisdiction where the United States is a defendant).

13 2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e)(3) and 28 U.S.C. §
14 1402(a)(1) because no real property is involved, the district is situated in Nevada, the defendants
15 are agencies of the United States or officers thereof acting in their official capacity, and Plaintiffs
16 reside in the State of Nevada and a substantial part of the events giving rise to this action are
17 occurring in this district.

18 3. The Plaintiffs’ requested relief is authorized under 28 U.S.C. § 2201 (declaratory
19 relief) and 28 U.S.C. § 2202 (further relief), and the Federal Rules of Civil Procedure 57 and 65,
20 and the general legal and equitable powers of this Court.

21 **NATURE OF THE ACTION**

22 4. The Patient Protection and Affordable Care Act (Pub. L. No. 111-148, H.R.
23 3590), as amended by the Health Care and Education Reconciliation Act (Pub. L. No. 111-152,
24 H.R. 4872) (collectively, the “PPACA”) mandates that all citizens and legal residents of the
25 United States maintain qualifying healthcare coverage (hereinafter “minimum essential
26 coverage”) by purchasing a single product, health insurance, or pay a penalty¹ (hereinafter

27 _____
28 ¹ The penalty appears to be characterized as a “tax.” Congress has seen fit to place
the penalty statute in Title 26 of the United State Code, have it essentially

1 “shared responsibility payment”), whether they care to or not (hereinafter, generally, the
2 “Individual Mandate”). *See* PPACA § 1501, 26 U.S.C. § 5000A(b) & (f). The United States
3 Constitution (“Constitution”) gives Congress no legal authority to, and the Bill of Rights disarms
4 the federal government of any power to, compel citizens who have not purchased, and do not
5 wish to purchase, health insurance to make that purchase as a condition of living and residing
6 within a state of the United States.

7 5. Plaintiffs challenge the constitutionality of the Patient Protection and Affordable
8 Care Act (Pub. L. No. 111-148, H.R. 3590), as amended by the Health Care and Education
9 Reconciliation Act (Pub. L. No. 111-152, H.R. 4872) (collectively, the “PPACA”) under the
10 enumerated powers section of Article I to the Constitution (U.S. Const. Art. I, § 8); the
11 Commerce Clause (U.S. Const. Art. I, § 8, cl. 3); the freedom of association protected by the
12 First Amendment to the Constitution (U.S. Const. Amend. I); the rights of conscience and the
13 free exercise of religion protected by the First Amendment of the Constitution (U.S. Const.
14 Amend. I); the due process provisions of the Fifth Amendment Due Process Clause (U.S. Const.
15 Amend. V); the liberty provision of the Fifth Amendment Due Process Clause (U.S. Const.
16 Amend. V); the rights retained by the People under the Ninth Amendment, and the powers
17 reserved to the State of Nevada and the People under the Tenth Amendment (U.S. Const.
18 Amend. IX and X); the right to Equal Protection under the Fifth Amendment (U.S. Const.
19 Amend. V); the right to privacy protected as a liberty right under the Fourth and Fifth
20 Amendment, as a right retained by and reserved to the people under the Ninth Amendment (U.S.

21
22
23 administered by the Internal Revenue Service, and have the penalty included in
24 individual taxpayers’ tax returns. *See, e.g.*, 26 U.S.C. § 5000A(b)(1) & (2). In
25 addition, while the penalty “shall be assessed and collected in the same manner as
26 an assessable penalty under subchapter of chapter 68B [of the Internal Revenue
27 Code]”, it appears to have been separated from normal IRS enforcement
28 mechanisms, in that failure to pay the penalty will not subject an individual to
criminal prosecution or subject them to IRS lien or levy. PPACA § 1501, 26
U.S.C. § 5000A(g)(2). On the other hand, actual taxes, excise taxes, are imposed
by PPACA Sections 9001 (on high cost employer-sponsored health coverage),
9009 (on medical devices), and 9017 (on indoor tanning services). The penalty is
never described anywhere in the PPACA as a tax.

1 Const. Amend. IX) and Tenth Amendment (U.S. Const. Amend. X), and as emanating from,
2 *inter alia*, the First, Third, Fourth, Fifth, and Ninth Amendments to the Constitution (U.S. Const.
3 Amend. IX); the right to be free from involuntary servitude protected by the Thirteenth
4 Amendment (U.S. Const. Amend. XIII); and the rights protected under the Fourteenth
5 Amendment to the Constitution (U.S. Const. Amend. XIV).

6 6. The PPACA exceeds the powers of the United States under Article I of the
7 Constitution. Congress has no enumerated power under Article I, Section 8 to compel Plaintiffs
8 herein to purchase with after-tax dollars a particular product, here health insurance.

9 7. The PPACA violates the Constitution because the federal government lacks legal
10 authority under Article I, Section 8, Clause 3 of the Constitution to compel Plaintiffs herein who
11 do not want to purchase health insurance and who are not engaged in interstate commerce
12 involving health insurance to make such a purchase.

13 8. The PPACA violates the freedom of association protected by the First
14 Amendment to the Constitution by compelling Plaintiffs herein to associate with a private health
15 insurer as a means to pay for a particular kind of medical care approved by the federal
16 government when that person wishes not to so associate.

17 9. The PPACA violates the free exercise of religion protected by the First
18 Amendment to the Constitution by compelling Plaintiffs herein to fund abortion in contravention
19 of sincerely held religious beliefs.

20 10. The PPACA violates the right to Equal Protection of the laws guaranteed under
21 the Fifth Amendment to the Constitution by improperly exempting certain persons and
22 organizations from the requirements of the PPACA, while discriminating against Plaintiffs herein
23 who choose not to purchase minimum essential coverage.

24 11. The PPACA violates the Due Process clause of the Fifth Amendment of the
25 Constitution by requiring Plaintiffs herein to purchase an unwanted product, here health
26 insurance in the form of minimum essential coverage, or pay the shared responsibility payment.

27 12. The PPACA violates the Constitution because the federal government lacks legal
28 authority under the Fifth Amendment to the Constitution to deprive Plaintiffs herein of the liberty

1 right to refuse to divulge medical confidences to a private insurer or its agent, to obtain health
2 insurance; to not receive medical treatment or treatment of a particular kind; and to not pay for
3 unwanted treatment; and to receive treatment of their own choosing.

4 13. The PPACA violates the right to privacy protected by the Constitution's Fifth
5 Amendment, the rights retained by and reserved to the people under the Ninth Amendment, and
6 rights emanating from the First, Third, Fourth, Fifth, and Ninth Amendments to the Constitution
7 because it forces Plaintiffs herein against their will, and without legal authority, to divulge highly
8 personal and confidential information, possibly including, but not limited to, data concerning or
9 derived from blood samples, urine samples, DNA samples, physical examinations, past or current
10 illnesses or diseases, past or current listing of daily medications, mental health examinations, and
11 other physical or emotional health data to a private health insurer and the government of the
12 United States.

13 14. The PPACA shared responsibility payment imposes an unconstitutional tax upon
14 the Plaintiffs herein.

15 15. The PPACA violates the Tenth Amendment of the Constitution because the power
16 to enact the PPACA was not delegated to Congress and is reserved to the States or the people,
17 including the Plaintiffs herein.

18 16. The PPACA violates the Thirteenth Amendment of the Constitution's prohibition
19 against involuntary servitude because it involuntarily creates a debt and coerces Plaintiffs herein
20 to work off the debt by threat of legal sanction.

21 17. The PPACA violates the rights of Plaintiffs herein as set forth in the Religious
22 Freedom Restoration Act of 1993 (RFRA), 42 U.S.C. § 2000bb et seq.

23 18. The PPACA violates the First Amendment of the Constitution's prohibition
24 against the government's establishment of religion by establishing, promoting and compelling
25 participation in the secular religion of Socialism.

26 19. Unless Plaintiffs purchase the minimum essential coverage, as mandated by the
27 PPACA, they will be subject to annual "shared responsibility payments" to the government. *See*

28

1 *e.g.*, PPACA § 1501, 26 U.S.C § 5000A(b). Through 2020, Plaintiffs will each be required to
2 pay, at a minimum, a total of \$3,895.

3 20. The total amount of shared responsibility payments that Plaintiffs must prepare
4 themselves to pay through 2020 may be greater than \$3,895 depending upon their income levels
5 during each taxable year and cost of living adjustments. Furthermore, the government will
6 continue to require Plaintiffs' households to make shared responsibility payments in 2021 and
7 beyond.

8 21. Plaintiffs are presently and concretely harmed by the PPACA because they are
9 compelled to adjust their fiscal affairs now to prepare themselves to pay thousands of dollars
10 over the next several years as required by the PPACA's mandate that Plaintiffs purchase an
11 approved health insurance policy. Plaintiffs who have dependents will be forced to pay even
12 higher amounts.

13 22. Health insurance contracts deal with a particular set of risks over a set period of
14 time which may or may not materialize, and both parties take a calculated risk based on the
15 uncertainty of future events. A determination that the PPACA's mandate that Plaintiffs purchase
16 an approved health insurance policy is unconstitutional because, months or years after numerous
17 individuals have involuntarily entered insurance contracts, the individuals and the insurance
18 companies would be left without an effective remedy. Individuals who, in hindsight, received
19 more benefits than they paid to the company during the life of the contract would want their
20 policies upheld, while individuals who, in hindsight, paid more to the company than they
21 received in benefits during the life of the contract would want their policies invalidated.
22 Allowing the validity of the PPACA's mandate that Plaintiffs purchase an approved health
23 insurance policy to be determined before individuals are required to purchase health insurance
24 policies will ensure that all persons injured by it will be made whole should a court hold it
25 invalid.

26 23. Accordingly, Plaintiffs hereby respectfully requests that this Honorable Court (1)
27 declare the PPACA unconstitutional under Article I, Section 8 (enumerated powers of Congress);
28 Article I, Section 8, Clause 3 (commerce clause); the First Amendment (freedom of association,

1 free exercise of religion, and prohibition against establishment of religion); and the Fifth
2 Amendment (right to liberty), and under the right to privacy protected by the Fifth Amendment
3 liberty provision and identified and defined under the Supreme Court case of *Roe v. Wade*,
4 protecting ones right to the privacy of one's own body, the rights retained by and reserved to the
5 people in the Ninth Amendment and Tenth Amendment, and the rights emanating from the First,
6 Third, Fourth, Fifth, and Ninth Amendment to the Constitution; the Ninth and Tenth
7 Amendments' identification of powers retained by and reserved to the people; the Thirteen
8 Amendment's prohibition against involuntary servitude; (2) find the PPACA to be in violation of
9 the RFRA; and (3) enjoin Defendants from enforcing the PPACA against Plaintiffs.

10 **CLASS ACTION ALLEGATIONS**

11 24. Plaintiffs bring this action on behalf of themselves and a class of persons initially
12 defined as follows:

13 All persons in the United States of America who object to being forced to participate in
14 the PPACA for any of the various reasons set forth above and below, including the violation of
15 their Constitutional rights protected under the First, Third, Fourth, Fifth, and Ninth Amendment
16 to the Constitution; the Ninth and Tenth Amendments' identification of powers retained by and
17 reserved to the people; the right to privacy as originally defined in *Roe v. Wade*, and the
18 Thirteen Amendment's prohibition against involuntary servitude; (the "Class")

19 25. This action has been brought and may properly be maintained on behalf of the
20 Class proposed above under the criteria of Federal Rule of Civil Procedure Rule 23.

21 26. Numerosity. Members of the Class are so numerous that their individual joinder
22 herein is impracticable. Hundreds of millions of U.S. citizens have been negatively affected by
23 the PPACA as more particularly described herein.

24 27. Existence and predominance of common questions. Common questions of law
25 and fact exist as to all members of the Class and predominate over questions affecting only
26 individual Class members. These common questions include the following:

27 a. Is it unconstitutional to force these Plaintiffs to participate in PPACA?

28

- 1 b. Do Congress and the Federal Government have any power to pass and enforce
2 such a law under the US Constitution?
- 3 c. Are the Constitutional rights of Plaintiffs under the First, Third, Fourth, Fifth, and
4 Ninth Amendment to the Constitution; the Ninth and Tenth Amendments'
5 identification of powers retained by and reserved to the people; the right to
6 privacy, and the Thirteen Amendment's prohibition against involuntary servitude,
7 violated by PPACA?
- 8 d. Does the PPACA violate the Privacy Rights of Plaintiffs under the case of Roe v.
9 Wade by allowing the government to control their private health care decisions
10 and giving the government control over Plaintiffs' bodies?
- 11 e. Does the PPACA violate the Religious Freedom Restoration Act?
- 12 f. Does the PPACA impose an unconstitutional capitation tax?
- 13 g. Does the PPACA set up a government sponsored secular religion in violation of
14 the establishment clause of the First Amendment?

15 28. Typicality. Plaintiffs' claims are typical of the claims of the Class, because,
16 among other things, all Plaintiffs object to being forced to participate in PPACA because it
17 violates their rights under the Bill of Rights and it goes beyond the powers delegated to Congress
18 by the US Constitution.

19 29. Adequacy. Plaintiffs are adequate representatives of the Class because their
20 interests do not conflict with the interests of the members of the Class they seek to represent.
21 Plaintiffs have retained counsel competent in complex class action litigation, and Plaintiffs
22 intend to prosecute this action vigorously. The interests of members of the Class will be fairly
23 and adequately protected by Plaintiffs and their counsel.

24 30. Superiority. The class action is superior to other available means for the fair and
25 efficient adjudication of this dispute. The injury suffered by each Class member, while
26 meaningful on an individual basis, is not of such magnitude as to make the prosecution of
27 individual actions against the Defendants economically feasible. Even if Class members
28 themselves could afford such individualized litigation, the court system could not. In addition to

1 the burden and expense of managing myriad actions arising from the claims described herein,
2 individualized litigation presents a potential for inconsistent or contradictory judgments,
3 individualized litigation increases the delay and expense to all parties and the court system
4 presented by the legal and factual issues of the case. By contrast, the class action device presents
5 far fewer management difficulties and provides the benefits of single adjudication, economy of
6 scale, and comprehensive supervision by a single court.

7 31. In the alternative, the Class may be certified because:

- 8 a. the prosecution of separate actions by the individual members of the Class would
9 create a risk of inconsistent or varying adjudication with respect to individual
10 Class members which would establish incompatible standards of conduct for
11 Defendants;
- 12 b. the prosecution of separate actions by individual Class members would create a
13 risk of adjudications with respect to them which would, as a practical matter, be
14 dispositive of the interests of other Class members not parties to the adjudications,
15 or substantially impair or impede their ability to protect their interests; and
- 16 c. Defendants have acted or refused to act on grounds generally applicable to the
17 Class, thereby making appropriate final and injunctive relief with respect to the
18 members of the Class as a whole.

19 **PLAINTIFFS**

20 **A. FORCED INSURANCE OBJECTOR**

21 32. TONY DANE is a Citizen of the United States, a resident of the State of Nevada,
22 and a federal tax payer.

23 33. TONY DANE is 49 years of age, does not qualify for Medicaid under the
24 PPACA or Medicare, [and] does not expect to qualify for them prior to the PPACA's Individual
25 Mandate taking effect. If and when he is eligible, he will not enroll in them. TONY DANE
26 does not have private health care insurance, and he objects to being compelled by the PPACA to
27 purchase health care coverage, and objects to the PPACA's unconstitutional overreaching and its
28 encroachment on the States' sovereignty and upon his God given rights protected by the U.S.

1 Constitution. The Federal Government simply does not have the power, under any provision of t
2 he United States Constitution, to forcibly require anyone, including TONY DANE, to purchase
3 health insurance against his will. Nowhere in the Constitution was this power delegated to the
4 Federal Government, and thus PPACA is unconstitutional.

5 34. TONY DANE is single, self employed, and is in generally good health. TONY
6 DANE could afford health insurance coverage, but he has elected not to purchase such insurance
7 and desires not to do so now or in the future. He is not covered by anyone else's health
8 insurance, pays for any health care expenses as they arise, and has not had health insurance
9 coverage for at least 15 years, and devotes his resources to maintaining his family, his business,
10 and his community and charitable activities.

11 35. TONY DANE does not qualify for any of the exemptions under the PPACA, and
12 it is highly likely that TONY DANE will not be exempted from the PPACA's Individual
13 Mandate over the next several years. TONY DANE does not declare a religious conscience
14 exemption (PPACA § 1501, 26 U.S.C. § 5000A(d)(2)(A)); does not participate in a health care
15 sharing ministry (PPACA § 1501, 26 U.S.C. § 5000A(d)(2)(B); is a United States citizen not
16 presently incarcerated (PPACA § 1501, 26 U.S.C. § 5000A(d)(2)© & (D)); his required
17 contribution under PPACA is less than 8 percent of his household income (PPACA § 1501, 26
18 U.S.C. § 5000A(e)(1)(A) & (B); his taxpayer income is greater than 100 percent of the poverty
19 line (PPACA § 1501, 26 U.S.C. § 5000A(e)(2); he is not a member of an Indian tribe (PPACA §
20 1501, 26 U.S.C. § 5000A(e)(3); and he claims no hardship with respect to his capability to obtain
21 coverage under a qualified plan (PPACA § 1501, 26 U.S.C. § 5000A(e)(5).

22 36. TONY DANE also strongly believes that the federal government lacks the
23 constitutionally delegated authority to force him to buy a health insurance policy or any other
24 good or service.

25 37. The PPACA imposes direct and substantial financial burdens upon TONY DANE
26 by requiring him to either 1) purchase and maintain "minimum essential coverage," without any
27 consideration of his individual needs and financial situation, or 2) pay the annual shared
28 responsibility payment.

1 38. Although TONY DANE strongly opposes being mandated to purchase minimum
2 essential coverage as well as being penalized for failing to do so, he views being forced to pay
3 the annual shared responsibility payment as the lesser of two evils from a financial standpoint.
4 Therefore, he will be forced to pay-under strong objection-the annual shared responsibility
5 payment.

6 39. As a direct result of the PPACA's inevitable impact upon Plaintiff DANE'S
7 finances and lifestyle, he is compelled to adjust his finances now, by setting aside money, and
8 will continue to do so, to pay the annual shared responsibility payment. As a result, he will be
9 unable to use that money for other purposes now, such as discretionary spending, charitable
10 donations, or paying debts, and will have to adjust his lifestyle accordingly, all of which will
11 unjustly and adversely burden him and continue to do so while the PPACA is in existence, and
12 either is threatened to be enforced, or is enforced against him.

13 40. Under the shared responsibility payment provisions of the PPACA, TONY DANE
14 will be required to pay, at a minimum, \$3,895 to the Government through 2020 for his lack of
15 minimum essential coverage (a minimum shared responsibility payment of \$95 in 2014, \$325 in
16 2015, \$695 in 2016, and \$695 or greater in 2017 or later). The total amount of shared
17 responsibility payments that the government will require TONY DANE to pay through 2020
18 may be greater depending upon his income levels during each taxable year, and TONY DANE
19 will be required to continue making shared responsibility payments in 2021 and beyond. His
20 payments will actually be more than this, because he has two minor children.

21 41. As a direct and proximate result of the PPACA, TONY DANE is concretely and
22 continuously harmed by both the specter of the inevitable enforcement of the PPACA against
23 him through either a coerced commercial transaction or a shared responsibility payment-and also
24 the present need to currently arrange his fiscal affairs to prepare himself to pay thousands of
25 dollars over the next several years as required by the PPACA.

26 42. This Plaintiff incorporates by reference all of the other allegations of this
27 complaint as if fully set forth herein.

28

1 **B. CONSCIENTIOUS OBJECTOR**

2 43. Plaintiff Joshua Hansen is a Citizen of the United States, a citizen of the State of
3 Nevada, and a federal tax payer.

4 44. Plaintiff Joshua Hansen is 30 years of age, does not qualify for Medicaid under
5 the PPACA or Medicare, and does not expect to qualify for them prior to the PPACA's
6 Individual Mandate taking effect, and if and when he is eligible, he will not enroll in them..
7 Plaintiff Joshua Hansen does not have private health care insurance, and he objects to being
8 compelled by the PPACA to purchase health care coverage, and objects to the PPACA's
9 unconstitutional overreaching and its encroachment on the States' sovereignty.

10 45. Plaintiff Joshua Hansen works in construction and computers, and is in generally
11 good health. Plaintiff Joshua Hansen could afford health insurance coverage, but he has elected
12 not to purchase such insurance and desires not to do so now or in the future. He is not covered
13 by anyone else's health insurance, pays for any health care expenses as they arise, and has never
14 had health insurance coverage in his entire life. He devotes his resources to maintaining his
15 family, his occupation, and his charitable and community activities.

16 46. Plaintiff Joshua Hansen does not qualify for any of the exemptions under the
17 PPACA, and it is highly likely that Plaintiff Joshua Hansen will not be exempted from the
18 PPACA's Individual Mandate over the next several years. Plaintiff Joshua Hansen does not
19 participate in a health care sharing ministry (PPACA § 1501, 26 U.S.C. § 5000A(d)(2)(B); is a
20 United States citizen not presently incarcerated (PPACA § 1501, 26 U.S.C. § 5000A(d)(2)(C) &
21 (D)); his required contribution under PPACA is less than 8 percent of his household income
22 (PPACA § 1501, 26 U.S.C. § 5000A(e)(1)(A) & (B); his taxpayer income is greater than 100
23 percent of the poverty line (PPACA § 1501, 26 U.S.C. § 5000A(e)(2); he is not a member of an
24 Indian tribe (PPACA § 1501, 26 U.S.C. § 5000A(e)(3); and he claims no hardship with respect to
25 his capability to obtain coverage under a qualified plan (PPACA § 1501, 26 U.S.C. §
26 5000A(e)(5).

27 47. In addition, Plaintiff Joshua Hansen has a sincerely held religious belief that God
28 will provide for his physical, spiritual, and financial well-being. Being forced to buy health

1 insurance conflicts with Plaintiff Joshua Hansen 's religious faith and is highly offensive to his
2 faith and beliefs. Plaintiff Joshua Hansen's faith leads him to want to be free to obtain the health
3 care of his own choosing, whatsoever health care he feels God directs him to obtain, including
4 alternative forms of medicine, such as natural healing, homeopathic treatment, and other
5 alternative forms of medical treatment not recognized or covered by PPACA.

6 48. Plaintiff Joshua Hansen also strongly believes that the federal government lacks
7 the authority to force him to buy a health insurance policy or any other good or service.

8 49. Because Plaintiff Joshua Hansen believes in relying on God to preserve his health
9 and provide for his physical, spiritual, and financial needs, and objects to participation in the
10 health insurance system, the PPACA imposes direct and substantial religious and financial
11 burdens upon Plaintiff Joshua Hansen and offends his religious beliefs by requiring him to either
12 1) purchase and maintain "minimum essential coverage," without any consideration of his
13 individual needs, Christian faith, and financial situation, or 2) pay the annual shared
14 responsibility payment.

15 50. Although Plaintiff Joshua Hansen strongly opposes being mandated to purchase
16 minimum essential coverage as well as being penalized for failing to do so, he views being
17 forced to pay the annual shared responsibility payment as the lesser of two evils from a religious
18 and financial standpoint. Therefore, he will be forced to pay-under strong objection-the annual
19 shared responsibility payment.

20 51. As a direct result of the PPACA's inevitable impact upon Plaintiff Joshua
21 Hansen's religious faith, finances and lifestyle, he is compelled to adjust his finances now, by
22 setting aside money, and will continue to do so, to pay the annual shared responsibility payment.
23 As a result, he will be unable to use that money for other purposes now, such as discretionary
24 spending, charitable donations, or paying debts, and will have to adjust her lifestyle accordingly,
25 all of which will unjustly and adversely burden him and continue to do so while the PPACA is in
26 existence, and either is threatened to be enforced, or is enforced against him.

27 52. Under the shared responsibility payment provisions of the PPACA, Plaintiff
28 Joshua Hansen will be required to pay, at a minimum, \$3,895 to the Government through 2020

1 for his lack of minimum essential coverage (a minimum shared responsibility payment of \$95 in
2 2014, \$325 in 2015, \$695 in 2016, and \$695 or greater in 2017 or later). The total amount of
3 shared responsibility payments that the government will require Plaintiff Joshua Hansen to pay
4 through 2020 may be greater depending upon his income levels during each taxable year, and
5 Plaintiff Joshua Hansen will be required to continue making shared responsibility payments in
6 2021 and beyond.

7 53. As a direct and proximate result of the PPACA, Plaintiff Joshua Hansen is
8 concretely and continuously harmed by both the specter of the inevitable enforcement of the
9 PPACA against him through either a coerced commercial transaction or a shared responsibility
10 payment-and also the present need to currently arrange his fiscal affairs to prepare himself to pay
11 thousands of dollars over the next several years as required by the PPACA.

12 54. This Plaintiff incorporates by reference all of the other allegations of this complaint
13 as if fully set forth herein.

14 **C. "HOLISTIC MEDICINE" OBJECTOR**

15 55. Plaintiffs hereby incorporates all of the allegations regarding contained in the
16 Complaint above as if fully set forth herein.

17 56. Plaintiffs JANINE HAWKINS and MICHAEL HAWKINS believe in a holistic
18 approach to health care and do not need or want to be forced to purchase, health insurance
19 coverage. They are both members of the Independent American Party and Nevada Eagle Forum,
20 and they believe in the constitutionally conservative values of those organizations, as set forth in
21 paragraphs above.

22 57. Under the shared responsibility payment provisions of the PPACA, Janine
23 Hawkins and Michael Hawkins will each be required to pay, at a minimum, \$3,895 to the
24 Government through 2020 for their lack of minimum essential coverage (a minimum shared
25 responsibility payment of \$95 in 2014, \$325 in 2015, \$695 in 2016, and \$695 or greater in 2017
26 or later). The total amount of shared responsibility payments that the government will require
27 MICHAEL HAWKINS and JANINE HAWKINS to pay through 2020 may be greater depending

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1 upon their income levels during each taxable year, and they will be required to continue making
2 shared responsibility payments in 2021 and beyond.

3 58. As a direct and proximate result of the PPACA, JANINE HAWKINS and
4 MICHAEL HAWKINS are concretely and continuously harmed by both the specter of the
5 inevitable enforcement of the PPACA against them through either a coerced commercial
6 transaction or a shared responsibility payment-and also the present need to currently arrange their
7 fiscal affairs to prepare themselves to pay thousands of dollars over the next several years as
8 required by the PPACA.

9 59. These Plaintiffs incorporate by reference all of the other allegations of this
10 complaint as if fully set forth herein.

11 **D. PLAINTIFF OBJECTING ORGANIZATION PEOPLEV.US**

12 60. Plaintiff PEOPLE V. US was organized specifically to give private citizens an
13 effective way to petition the government, as provided in the First Amendment, and to provide
14 and opportunity to join their voices in a class action against PPACA, commonly known as
15 Obamacare. PEOPLE V. US as an organization believes that Obamacare violates at least 60% of
16 the Bill of Rights, as set forth in the allegations above, which are incorporated herein in their
17 entirety by reference. The private citizens who have joined PEOPLE V. US all have specific
18 objections to the constitutionality of PPACA. All of the named individual Plaintiffs are
19 members of PPACA, and their various objections to PPACA are incorporated by reference as if
20 fully set forth herein.

21 61. This Plaintiff incorporates by reference all of the other allegations of this
22 complaint as if fully set forth herein.

23 **E. PLAINTIFF TONY DANE AND TRACIE PISTOCCO, MEMBERS OF
24 OBJECTING ORGANIZATION PEOPLE V. US**

25 62. Plaintiffs TONY DANE AND TRACIE PISTOCCO are citizens of the State of
26 Nevada and citizens of the United States. Tony Dane has his own business, and Tracie Pistocco
27 is a part time officer worker. and is a member of PEOPLEV.US. Plaintiffs DANE AND
28 PISTOCCO, will be subject to the mandates of PPACA and objects to being forced to comply

1 with it, and object to the PPACA's unconstitutional overreaching and its encroachment on the
2 States' sovereignty, and all other Constitutional objections set forth herein.

3 63. Plaintiffs DANE AND PISTOCCO hereby incorporate by reference all of the
4 allegations set forth above in this complaint as to the unconstitutional nature of PPACA, and
5 object to them as members of PEOPLEV US and as individuals.

6 64. Plaintiffs DANE AND PISTOCCO will be damaged in the same ways as set forth
7 above for Plaintiff TONY DANE in paragraphs 38 through 42 and hereby incorporate those
8 allegations contained herein as they apply equally to him.

9 65. All of the individual Plaintiffs named herein are also members of PEOPLEV.US
10 and object herein for the same reasons as Plaintiff TONY DANE and for their other reasons as
11 specifically set forth in the paragraphs regarding those Plaintiffs.

12 66. These Plaintiffs incorporate by reference all of the other allegations of this
13 complaint as if fully set forth herein.

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15 **F. PLAINTIFF INDEPENDENT AMERICAN PARTY AND PLAINTIFF NEVADA**
16 **EAGLE FORUM ARE CONSTITUTIONALLY CONSERVATIVE**
17 **ORGANIZATIONS WHICH EMBRACE THE ECONOMIC VALUES AND**
GOVERNMENTAL STRUCTURE SET FORTH IN THE UNITED STATES
CONSTITUTION

18 67. Plaintiff INDEPENDENT AMERICAN PARTY OF NEVADA (hereinafter IAP)
19 is a political party incorporated under the laws of the State of Nevada. Plaintiff IAP has
20 approximately 60,000 members/registered voters. Plaintiff NEVADA EAGLE FORUM
21 (hereinafter "EAGLE") falls under the definition of a 501© (4) educational and lobbying
22 organization. It has approximately 2000 members. Certain of the members of the IAP and
23 EAGLE, including some of the individual named Plaintiffs, are not enrolled in either a public or
24 a private health insurance plan and do not qualify for exemption from the PPACA mandate that
25 they buy health insurance.

26 68. Plaintiffs IAP and EAGLE members are United States citizens devoted to the
27 preservation of constitutional/conservative values and oppose socialism, marxism, fascism, and
28 any such form of state religion or government controlled health care. Plaintiffs IAP and EAGLE

1 seek to “promote the virtues of Constitutionalism/Conservatism through various means, the IAP
2 through political action and sponsoring candidates for public office, EAGLE through education,
3 advertising, community action, and lobbying. Plaintiffs IAP and EAGLE are part of and aim to
4 continue to organize constitutional/conservative educational, legal, political, and philosophical
5 movements across the United States. IAP and EAGLE were organized to give their members a
6 more effective voice in petitioning the government, as provided in the First Amendment. These
7 Plaintiffs consider protection of individual liberty, including the freedom to choose how one
8 wishes to dispose of after tax dollars, an essential American constitutional value, inextricably
9 tied to the preservation of the limited federal republic created by the U.S. Constitution. In
10 particular, these Plaintiffs favor freedom of choice in the health insurance marketplace and a free
11 market in medical care and oppose efforts by the federal government to interfere with those
12 market processes. To protect that freedom and that republic, these Plaintiffs are pursuing the
13 instant litigation against the federal government, seeking to invalidate the PPACA which
14 destroys and deprives individual liberty and thereby imperils the republic. Many Plaintiffs IAP
15 and EAGLE members are federal taxpayers. All such members who are not currently insured are
16 obligated under the PPACA to obtain government-sanctioned health insurance. The PPACA’s
17 mandatory insurance requirement applies to them without exemption. These Plaintiffs and their
18 members believe and hereby assert that the First, Third, Fourth, Fifth, and Ninth Amendment to
19 the Constitution; the Ninth and Tenth Amendments’ identification of powers retained by and
20 reserved to the people; the right to privacy as defined in *Roe v. Wade*, and the Thirteen
21 Amendment’s prohibition against involuntary servitude, are all violated by PPACA.

22 69. Plaintiffs MICHAEL HAWKINS AND JANINE HAWKINS are members of the
23 IAP and of EAGLE and share political, constitutional, and conservative values, goals, and
24 beliefs of EAGLE and the IAP. Plaintiff LYN RANDALL is a citizen of Nevada and of the
25 United States of America, a member of EAGLE, and shares the political, constitutional, and
26 conservative values, goals, and beliefs of EAGLE.

27 70. These Plaintiffs incorporate by reference all of the other allegations of this
28 complaint as if fully set forth herein.

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G. ABORTION - FREE EXERCISE CLAUSE CHRISTIAN RELIGIOUS PRO-LIFE ABORTION OBJECTORS

71. Plaintiffs IVY HIPPLER, and JANINE HAWKINS are residents of Nevada, federal taxpayers, members of Plaintiff PEOPLEV.US, and are Christians. Plaintiff JANINE HAWKINS is a resident of Nevada, a federal taxpayer, and a member of the Church of Jesus Christ of Latter Day Saints. Based on their deeply held religious beliefs and convictions, these Plaintiffs object to being forced by the federal government to contribute in any way to the funding of abortion. These Plaintiffs do not have, and do not wish to acquire, any health insurance. These Plaintiffs are not exempt from the PPACA’s mandatory insurance requirement.

72. These Plaintiffs incorporate by reference all of the other allegations of this complaint as if fully set forth herein.

F. ANTI-SOCIALISM RELIGIOUS OBJECTOR-FREE EXERCISE CLAUSE

73. Plaintiff TRACIE PISTOCCO is a Christian. She is a Citizen of Nevada and of the United States of America. She has a sincerely held religious belief that charity is an obligation and sacrament of his faith as commanded by the Bible that people, as individuals—as opposed to government—are to care for one another. *See* Luke 14:13; Psalm 41:1, 2; 1 Timothy 6:17, 18. Part of this sincerely held religious belief is that all forms of Socialism are abhorrent and contrary to her Christian faith, because Socialism dictates, by force of law and without free will, that the government will take what the people have and distribute it to those who allegedly have less, regardless of latter’s need or attempt to care for themselves. She objects to PPACA because it compels her, under the guise of the “shared responsibility payment”, to perform forced charity which violates the very foundation of his Christian faith. *See* PPACA § 1501(a); *see also* 26 U.S.C. § 5000A(b).

74. Plaintiff Christopher Hansen shares the same beliefs as TRACIE PISTOCCO. Christopher Hansen is a Christian and member and founder of the First Christian Fellowship of Eternal Sovereignty and believes that Socialism and its twin brothers, Communism, Fascism, and Marxism, are State/Civic religions and thus that Obamacare/PPACA, an admittedly socialistic and

1 compelled system of belief, violates the free exercise clause of t he First Amendment, because it
2 destroys his ability to exercise his religion according to the dictates of his own conscience. In
3 his belief, Satan is the founder of compelled “charity,” which violates the principles of free
4 agency set forth in the scriptures in which Christopher Hansen believes, including the Bible and
5 the Book of Mormon, and the Constitution of the United States of America, which he believes to
6 be inspired by God and the only true political religion. To force him to participate in Obamacare
7 thus violates his free exercise of religion under the First Amendment.

8 75. These Plaintiffs incorporate by reference all of the other allegations of this
9 complaint as if fully set forth herein.

10 **G. ANTI-SOCIALISM OBJECTOR - ESTABLISHMENT CLAUSE**

11 76. Plaintiffs Christopher Hansen, TONY DANE, and GALE CARLTON are citizens
12 of the United States of America and of Nevada, and are federal taxpayers. These Plaintiffs object
13 to the PPACA because it is the establishment of Socialism as a civil / secular religion, and
14 compels participation in this state sponsored religion by way of the Individual Mandate and the
15 shared responsibility payment. *See Lee v. Weisman*, 505 U.S. 577, 578, (1992) (“[T]he
16 government may not establish an official or civic religion as a means of avoiding the
17 establishment of a religion with more specific creeds.”)

18 77. These Plaintiffs incorporate by reference all of the other allegations of this
19 complaint as if fully set forth herein.

20 **H. EQUAL PROTECTION CLAUSE OBJECTOR**

21 78. Plaintiff JANINE HAWKINS, and IVY HIPPLER object to the PPACA because
22 it provides for some religious exemptions from the mandates of the PPACA, but forces these
23 Plaintiffs to contribute to the funding of abortion in violation of their deeply held religious
24 convictions, thereby depriving these Plaintiffs of the equal protection of the law guaranteed
25 under the Fifth Amendment to the Constitution (U.S. Const. Amend. V).

26 79. These Plaintiffs incorporate by reference all of the other allegations of this
27 complaint as if fully set forth herein.

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DEFENDANTS

80. Defendant United States Department of Health and Human Services (HHS) is established by 5 U.S.C. § 101 and is an executive department of the United States government charged with the principal protection of the health of all Americans. HHS’s duties involve administering portions of the PPACA.

81. Defendant Barack H. Obama is the President of the United States of America. As President, Obama is charged with implementing the PPACA. Defendant Obama is sued in his official capacity.

82. Defendant Kathleen Sebelius is the Secretary of the United States Department of Health and Human Services and is the principal authority within HHS. As HHS Secretary Defendant Sebelius is responsible for implementing, enforcing, and administering the PPACA. Defendant Sebelius is sued in her official capacity.

83. Defendant Eric H. Holder, Jr. is the Attorney General of the United States of America. Defendant Holder heads the Department of Justice. He is the chief law enforcement officer of the federal government. As Attorney General Defendant Holder is charged with enforcing the civil and criminal laws of the United States, including the PPACA. Defendant Holder is sued in his official capacity.

84. Defendant United States Department of the Treasury is an executive department of the United States government charged with collecting federal taxes and enforcing federal tax laws. The United States Treasury’s duties include administering portions of the PPACA.

85. Defendant Timothy F. Geithner is the Secretary of the United States Department of Treasury. As Treasury Secretary, Defendant Geithner is head of the Internal Revenue Service (“IRS”) and is responsible for enforcing the Internal Revenue Code, including overseeing the collection of taxes, enforcing the tax laws, and enforcing certain penalty provisions in the PPACA. Defendant Geithner is sued in his official capacity.

STANDING

86. All Individual Plaintiffs have standing because they are individuals directly affected by PPACA’s mandatory health insurance requirement. Under PPACA, the Individual

1 Plaintiffs are required to obtain health insurance or suffer a financial penalty resulting in a loss of
2 personal property. The Individual Plaintiffs currently do not have health insurance. The
3 Individual Plaintiffs do not intend to obtain government-compelled insurance. The Individual
4 Plaintiffs will suffer an injury-in-fact as a result of PPACA, to wit, penalty imposed for failure to
5 obtain individual health insurance under PPACA Section 1501, 26 U.S.C. § 5000A. *See Allen v.*
6 *Wright*, 468 U.S. 737, 755-56 (1984) (injury must directly affect the plaintiff). The penalty
7 under PPACA becomes effective on January 1, 2014. As already noted above, Plaintiffs are not
8 required to wait for the realization of that harm to bring suit. *See Long Beach Area Chamber of*
9 *Commerce v. City of Long Beach*, 2010 U.S. App. LEXIS 8963 (9th Cir. Cal. Apr. 30, 2010);
10 *Blum v. Yaretsky*, 457 U.S. 991, 1001 (1982) (“[one] does not have to await the consummation
11 of threatened injury to obtain preventative relief”).

12 87. In addition, Individual Plaintiffs suffer irreparable injury as a result of the
13 PPACA’s constitutional rights violations because each is required to associate with a private
14 health insurer against his or her will; each is required to divulge confidential information about
15 his or her personal health status to a private insurer against his or her will, taking control of one’s
16 own body away from the individual and transferring that control to the government, thus
17 violating their right of privacy as defined in *Roe v. Wade*, and each is deprived of the Fifth
18 Amendment liberty right to refuse the purchase of health insurance.

19 88. All of the individual Plaintiffs have standing because their God given,
20 Constitutionally protected rights under one or more of the First Ten Amendments of the
21 Constitution--the Bill of Rights--are being violated. This includes violations of their rights by
22 PPACA under the First, Third, Fourth, Fifth, Ninth, and Tenth Amendments, the violation of the
23 right of privacy as defined in *Roe v. Wade* and emanating from these Amendments, and under the
24 Thirteenth and Fourteenth Amendments. Again, nowhere in the Constitution is the Federal
25 Government granted any power to do what PPACA purports to do, and the power to do what
26 PPACA is attempting to do is specifically prohibited to the Federal Government under the named
27 provisions of the Bill of Rights.

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1 89. Plaintiffs IAP, EAGLE, and PEOPLE all have standing as an associations
2 representing their members, as listed above. This lawsuit is in accord with Plaintiffs
3 Organizations IAP, EAGLE, and PEOPLE respective missions, described above to defend
4 conservative constitutional values by opposing unconstitutional federal laws and regulations that
5 deprive individuals of liberty and thereby imperil the republic, to defend the God Given rights of
6 their members under the Bill of Rights and other provisions of the Constitution, to petition the
7 government as allowed and protected by the First Amendment, and to allow their members the
8 opportunity as private citizens to have a say and influence in the great constitutional questions of
9 the day. . An association has standing to bring suit on behalf of its members when: (a) its
10 members would otherwise have standing to sue in their own right; (b) the interests it seeks to
11 protect are germane to its organization's purpose; and © neither the claim asserted nor the relief
12 requested requires the participation of individual members in the lawsuit. See Hunt v.
13 Washington State Apple Advertising Comm'n, 432 U.S. 333, 342 (1977) (Burger, C.J.).

14 90. Plaintiff members of IAP, EAGLE, and PEOPLE have standing because their
15 members are compelled to acquire health insurance under the PPACA or face a “tax” penalty and
16 they will all suffer, whether presently insured or not, from a transformation of the medical
17 marketplace affected by changes in health care delivery, service, and cost effected by the
18 PPACA. The mandatory insurance requirement violates the Plaintiffs’ members’ constitutional
19 rights. Their injuries are real and immediate because, absent judicial intervention, the PPACA
20 will be enforced as enacted on January 1, 2014. This lawsuit is germane to the Plaintiff CEVO’s
21 purpose of pursuing the rights of its members against federal legislation that conflicts with those
22 members' conservative values, including their support for the protections afforded individual
23 rights and liberties by the Constitution of the United States. Finally, the participation of every of
24 these Plaintiffs’ members is not required. Plaintiffs IAP, EAGLE, and PEOPLE do not seek
25 monetary damages that would render a just verdict difficult to apportion. Plaintiff organizations
26 represent their members’ common interests which oppose deprivations of liberty affected by
27 federal laws and regulations. Their members universally oppose the PPACA’s violation of
28 members’ constitutionally protected rights. Plaintiff PEOPLE members have enrolled in this

1 organization with the specific understanding that Plaintiff PEOPLE would pursue on their behalf
2 litigation against federal government rights violations, such as this litigation.

3 91. Plaintiffs Anti Socialism Establishment Clause objectors have standing because
4 they are taxpayers, the PPACA and the funding of abortion thereunder is an exercise of
5 Congress's taxing and spending power, the PPACA involves a substantial expenditure of federal
6 tax funds under an Act of Congress, and the Establishment Clause of the First Amendment is a
7 specific limitation under Congress's taxing and spending power.

8 92. Accordingly, the Plaintiffs possess article III standing to contest injuries suffered
9 as a result of the PPACA.

10 STATEMENT OF FACTS

11 93. President Barack H. Obama signed into law the Patient Protection and Affordable
12 Care Act on March 23, 2010. Shortly thereafter, by means of reconciliation, Congress enacted the
13 Health Care and Education Reconciliation Act of 2010, amending the PPACA. President Obama
14 signed into law the Health Care and Education Reconciliation Act on March 30, 2010.

15 94. The two laws form the Federal Government's comprehensive health care reform
16 law at issue in this case, hereinafter collectively referred to as the "PPACA."

17 95. The PPACA modifies government health care programs such as Medicare and
18 Medicaid, imposes obligations on private employers, creates new federal "taxes", places
19 restrictions on private health insurers, and requires almost every United States citizen not
20 currently enrolled in a health insurance program to obtain private health insurance or suffer a
21 "tax" penalty.

22 96. The requirement that U.S. citizens not presently covered by health insurance
23 purchase private health insurance is contained in the PPACA § 1501, 26 U.S.C. § 5000A, which
24 provides, in pertinent part:

25 (a) REQUIREMENT TO MAINTAIN MINIMUM ESSENTIAL COVERAGE.--An
26 applicable individual shall for each month beginning after 2013 ensure that the
27 individual, and any dependent of the individual who is an applicable individual, is
covered under minimum essential coverage for such month.

28 (b) SHARED RESPONSIBILITY PAYMENT.--

(1) IN GENERAL.--If an applicable individual fails to meet the requirement

of subsection (a) for 1 or more months during any calendar year beginning after 2013, then, except as provided in subsection (d), there is hereby imposed a penalty with respect to the individual in the amount determined under subsection ©.

.....

- (f) MINIMUM ESSENTIAL COVERAGE.--For purposes of this section--
 - (1) IN GENERAL.--The term ‘minimum essential coverage’ means any of the following:
 - (A) GOVERNMENT SPONSORED PROGRAMS.--Coverage under--
 - (I) the Medicare program under part A of title XVIII of the Social Security Act,
 - (ii) the Medicaid program under title XIX of the Social Security Act,
 - (iii) the CHIP program under title XXI of the Social Security Act,
 - (iv) the TRICARE for Life program
 - (v) the veteran's health care program under chapter 17 of title 38, United States Code, or
 - (vi) a health plan under section 2504(e) of title 22, United States Code (relating to Peace Corps volunteers).
 - (B) EMPLOYER-SPONSORED PLAN.--Coverage under an eligible employer-sponsored plan.
 - (C) PLANS IN THE INDIVIDUAL MARKET.--Coverage under a health plan offered in the individual market within a State.
 - (D) GRAND FATHERED HEALTH PLAN.--Coverage under a grandfathered health plan.
 - (E) OTHER COVERAGE.--Such other health benefits coverage, such as a State health benefits risk pool, as the Secretary of Health and Human Services, in coordination with the Secretary, recognizes for purposes of this subsection.

See PPACA § 1501 (26 U.S.C. § 5000A) (emphasis)

97. The PPACA provides that by January 1, 2014, all United States citizens not currently insured must purchase a health insurance policy that is federally “qualified” (establishing an orthodoxy on the kind of care that will be covered) to avoid federal “tax” penalties. Unless overturned by a court of competent jurisdiction, Plaintiffs IAP, EAGLE, AND PEOPLE’S non-insured members and Individual Plaintiffs are certain to incur financial penalties under the PPACA and be forced to acquire private health insurance that they do not want.

98. Section 1501 of the PPACA requires individuals and their dependents to purchase and maintain a level of minimum health insurance coverage. Through this Individual Mandate, Section 1501 seeks to further Congress’ stated purpose of forcing millions of Americans who do not have health insurance, but could afford such insurance if they re-adjusted their fiscal affairs and lifestyles, to purchase health insurance policies from private companies. The Individual

1 Mandate requires individuals to pay money to private insurance companies, not the government,
2 and such coerced payments to private insurance companies are not a tax.

3 99. Among the PPACA's other provisions that have some connection to the
4 Individual Mandate is a provision stating that those who do not meet the requirements of the
5 mandate will be subject to an annual shared responsibility payment to the government.

6 100. In general, the shared responsibility payment is imposed for any month in a given
7 year that an applicable individual fails to maintain minimum essential coverage and is included
8 on a taxpayer's income tax return for that taxable year.

9 101. Taxpayers are liable for any shared responsibility payment imposed upon their
10 dependents, and spouses are jointly liable for any shared responsibility payments if they file a
11 joint return.

12 102. Under the PPACA's complicated shared responsibility payment structure, the
13 minimum shared responsibility payment amount per year for each adult who lacks minimum
14 essential coverage will be \$95 for 2014, \$325 for 2015, \$695 for 2016, and \$695 or more for
15 2017 or later, increased due to cost-of-living adjustments. The minimum shared responsibility
16 payment amount per year for minors under age eighteen who lack minimum essential coverage is
17 one half of the amounts previously listed. When this calculation is used, the total shared
18 responsibility payment amount per household for each taxable year cannot exceed 300 percent of
19 the applicable dollar amount for that calendar year (disregarding the rule for minors under 18).

20 103. The above-mentioned shared responsibility payment calculation is disregarded
21 when a certain percentage of the taxpayer's household income that exceeds the applicable
22 threshold for filing a tax return is greater than the amounts listed above for the taxable year. The
23 applicable percentages are 1 percent of the excess amount in 2014, 2.0 percent of the excess in
24 2015, and 2.5 percent in 2016 or later.

25 104. When the percentage of the excess over the filing threshold is greater than the
26 specific amounts listed above for the taxable year-which will often be the case for Individual
27 Plaintiffs and many other Americans-the taxpayer must pay the amount of the excess with no
28 specific dollar cap. For example, where a taxpayer's household income (minus the amount of the

1 applicable threshold for filing a tax return) is \$50,000, the shared responsibility payment amount
2 per year would be, at a minimum, \$500 for 2014, \$1,000 for 2015, and \$1,250 for 2016 or later.

3 105. A number of members of the Plaintiffs, IAP, EAGLE, AND PEOPLE's members,
4 including Individual Plaintiffs, are not enrolled in either a public or a private health insurance
5 plan and do not wish to be enrolled in such plans. Those members are thus penalized by the
6 PPACA for their inactivity. Simply by virtue of their United States citizenship and residence
7 within a state, they are compelled to purchase a single product, health insurance. Those members
8 have done nothing to avail themselves of interstate commerce cognizable under the PPACA.
9 Their decision not to purchase private health insurance has no effect on interstate commerce. No
10 nexus exists between those members' personal decision to avoid contractual obligations with
11 health insurance providers and the national economy.

12 106. Plaintiffs IAP, EAGLE, AND PEOPLE's members include United States citizens
13 who are ineligible to participate in public health insurance plans and who elect not to obtain
14 private health insurance. They variously wish to save, invest, or otherwise expend the thousands
15 of dollars each year that the PPACA compels them to pay for private health insurance. A number
16 of the uninsured members of Plaintiffs IAP, EAGLE, AND PEOPLE wish to pursue alternative
17 therapies and medicinal approaches for which they now payout of pocket and for which neither
18 public nor private plans currently provide nor expect to provide coverage.

19 107. The decision to devote one's personal resources to pay for health care or health
20 care of a particular kind, just like the decision to refuse treatment of a particular kind or to refuse
21 payment for treatment altogether, is a deeply personal and intimate decision inherent in personal
22 liberty and a hallmark of self-governance. It is affected by one's circumstances in life,
23 preferences, view of alternative and integrative medicine, and numerous other unique
24 predilections. The PPACA forcibly associates all U.S. Citizens at their own expense with
25 government-qualified, and, thereby, orthodox health insurance policies. The PPACA fails to
26 include any allowance for dissent from its mandate or for coverage of alternative or integrative
27 therapies, presently disallowed by Medicaid and Medicare. The PPACA does not protect the
28 penultimate right of each U.S. Citizen to refuse payment for insurance for medical treatment or to

1 refuse payment for insurance for medical treatment not desired. Rather, the PPACA mandates
2 that almost all United States Citizens purchase health insurance deemed “qualified” without
3 permitting any dissent or exception from that requirement.

4 108. The decision to refrain from purchasing with one’s own after tax dollars unwanted
5 health insurance for unwanted medical care is a fundamental right. The Supreme Court has
6 recognized that adults possess a fundamental right to refuse medical treatment. They likewise
7 possess a fundamental right to refuse payment for that treatment or payment for plans that will
8 cover the costs of such treatment. The government cannot, consistent with the fundamental right
9 of personal liberty, compel a person to expend his or her own after tax dollars to purchase a
10 particular product deemed essential by the government, but not by that individual, whether that
11 be health insurance, a radio, a telephone, a computer, an electric car, solar heating, or daycare,
12 among any number of items that could be viewed by elected officials as essential for one reason
13 or another. While the federal government arguably possesses the power to tax for the purpose of
14 financing public welfare, it may not dictate that a citizen expend his or her own after tax dollars
15 on particular products or services without depriving that citizen of his or her right to liberty
16 protected by the Fifth Amendment and supported by the Ninth Amendment and Tenth
17 Amendment.

18 109. The PPACA exceeds the limited, enumerated powers granted Congress in Article
19 I, Section 8 of the Constitution; none of those enumerated powers, including the powers to
20 regulate interstate commerce and impose taxes, permits legislation compelling every uninsured
21 adult American citizen to purchase health insurance.

22 110. The requirement of mandatory health insurance compels the uninsured members
23 of Plaintiffs IAP, EAGLE, AND PEOPLE and Individual Plaintiffs as a condition of citizenship
24 to purchase a “qualified” health insurance plan and to accept the requirements of that plan,
25 depriving each of the right to refuse such a purchase and to dedicate his or her after tax dollars to
26 savings, investments, or expenditures as he or she otherwise wishes.

27 111. The Plaintiffs IAP, EAGLE, AND PEOPLE’s members and Individual Plaintiffs
28 have the Constitutional right to be free from forced association with health insurance carriers,

1 their various independent agents with mandatory tacked-on commissions to premiums, and
2 medical providers. The Plaintiffs IAP, EAGLE, AND PEOPLE’s members have the right not to
3 so associate or instead to associate with medical practitioners of their own choosing, including
4 those who do not participate in or accept insurance, despite the fact that services they provide are
5 not ones covered by health insurance plans deemed federally “qualified.” A number of health
6 insurance carriers require an applicant to use non-employee insurance agents. One is not
7 permitted to apply directly for health insurance with the carrier company. Every health insurance
8 premium payment adds on a separate fee payable to the insurance agent.

9 112. Moreover, the PPACA compels Plaintiffs IAP, EAGLE, AND PEOPLE’s
10 members to share their private and personal mental, physical and emotional health information
11 with “qualified” contracting insurance carriers and their respective independent insurance agents
12 without the right to dissent from so doing, thus violating their rights of association and privacy
13 under the Constitution. *See NAACP v. Alabama*, 356 U.S. 449 (1958); *Roberts v. U.S. Jaycees*,
14 468 U.S. 609, 623 (1984); *Board of Directors of Rotary Int’l v. Rotary Club of Duarte*, 481 U.S.
15 537, 545-47 (1987); *see also Rust v. Sullivan*, 500 U.S. 173, 174-75 (1991); *Cal-Almond, Inc. v.*
16 *United States Dep’t of Agric.*, 14 F.3d 429, 436 (9th Cir. 1993).

17 113. The PPACA’s mandate that almost all uninsured Americans purchase “qualified”
18 health insurance plans violates the Constitution Article I, Section 8, Clause 3 (the Commerce
19 Clause) in those instances where people, such as the aforementioned members of Plaintiffs IAP,
20 EAGLE, AND PEOPLE, neither possess nor desire to possess any health insurance.

21 114. To the degree the PPACA is a tax, it is an unconstitutional tax in violation of the
22 Constitution Article I, Section 8, Clause 1.

23 115. Plaintiffs JANINE HAWKINS and IVY HIPPLER object to being forced to
24 contribute to the funding of abortion, which, according to their deeply held religious beliefs and
25 convictions, is a grave moral disorder since it is the deliberate killing of an innocent human
26 being.

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28

1 116. Plaintiffs IAP and EAGLE, and PEOPLE, and its members, including Plaintiffs
2 JANINE HAWKINS and IVY HIPPLER, similarly object to being forced to contribute to the
3 funding of abortion through the PPACA.

4 117. Reserved.

5 118. Pursuant to their deeply held religious beliefs and convictions, Plaintiffs JANINE
6 HAWKINS and IVY HIPPLER conscientiously object to being forced to contribute to the
7 funding of abortion.

8 119. Other Plaintiffs object on the various grounds set forth above, such as their
9 religious beliefs against health insurance, their religious beliefs against forced charity and
10 socialism, their opposition to state established civic religion of socialism, and their objections to
11 the destruction and violation of their free exercise of their religion, etc., all as set forth above.

12 120. The PPACA forces these Plaintiffs , under penalty of federal law, to contribute to
13 the funding of abortion.

14 121. Consequently, the PPACA uses the power of federal law and authority to force
15 these Plaintiffs to contribute to the funding of abortion and thereby violate their conscience and
16 their deeply held religious beliefs and convictions.

17 122. Group health plans providing coverage on May 23, 2010 and health insurance
18 coverage provided by unions pursuant to collective bargaining agreements ratified before May
19 23, 2010 are deemed “grandfathered” under the PPACA. *See* PPACA § 1251(e). A
20 grandfathered plan is exempt from the most restrictive requirements of the PPACA. *Id.*

21 123. The rules limiting grandfathering are less stringent for unions. While employer or
22 employee organizations lose their grandfathered status when they enter into a new policy,
23 certificate, or contract of insurance, union health care plans remain in effect as long as their
24 collective bargaining agreement is in force, and retain their grandfathered status even if the
25 employers and unions who are party to the collective bargaining agreement agree to change
26 insurers. *See* 26 C.F.R. § 54.9815-1251T (2010), 75 Fed. Reg. 34558–62 (June 17, 2010).

27 124. Through the enforcement of the PPACA, certain organizations, specifically
28 including certain unions, will be exempt from certain provisions of the PPACA, will not be

1 “taxed” on their health care plans, or will enjoy lower insurance rates, because these
2 organizations share the same political views of Defendants and of those currently in power in
3 Congress. Plaintiffs IAP, EAGLE, AND PEOPLE, some of whose members are private business
4 owners and do not share the same political views of DEFENDANTS, will be discriminated
5 against in the enforcement of the PPACA in that their employees will be “taxed” for the health
6 care coverage provided by these individual members through their businesses.

7 125. It is an unconstitutional abuse of federal power to fund and benefit through tax
8 exemptions and other mechanisms special interest organizations, including unions, based on their
9 political viewpoints and to deny similar funding and benefits to other individuals and
10 organizations based on their political viewpoints.

11 126. Congress cannot use its power to “tax” solely as a means of controlling conduct
12 that it could not otherwise control through the Commerce Clause or any other provision of the
13 Constitution.

14 127. To the degree that the penalty imposed under Section 1501 of the PPACA (26
15 U.S.C. § 5000A) to enforce the mandate that private citizens, including individual Plaintiffs,
16 purchase health care coverage is a direct “tax” on the person (capitation “tax”) that is not
17 apportioned among the States on the basis of census population.

18 128. The relevant sections of the PPACA are beyond the power granted to Congress
19 under the Constitution and are, therefore, unconstitutional and unenforceable.

20 129. The only power under which Congress claimed to have the constitutional
21 authority to impose a mandate to purchase the minimum essential coverage is the power to
22 regulate interstate commerce found in Article I, Section 8.

23 130. No power enumerated or implied by Article I, Section 8, including the Commerce
24 Clause, Necessary and Proper Clause, or the General Welfare Clause, grants Congress the power
25 to enact a law that requires individuals who are not engaging in economic or commercial activity
26 to enter a commercial transaction against their will.

27 131. In addition, the PPACA violates the rights of religious Plaintiffs, as set forth in
28 Religious Freedom Restoration Act (RFRA), 42 U.S.C. § 2000bb et seq., by forcing them to

1 participate in an insurance system that is based upon principles that are diametrically opposed to
2 their religious beliefs.

3 132. In being subject to the penalty for failure to obtain minimum essential coverage
4 as described under PPACA Section 5000A, the Individual Plaintiffs will be: (a) compelled to
5 work—in order to pay for the coverage—or be subject to legal sanctions in the form of the
6 penalty under PPACA Section 5000A; or (2) placed in debt by the penalty and compelled to
7 work to pay the penalty under threat of legal sanction.

8 133. PPACA, as it forces all Americans to have health insurance, and to participate in
9 “shared responsibility” to make sure that everyone is covered or is fined for not being covered, is
10 a socialistic program designed to take away individual freedom and responsibility and replace it
11 with government mandated “choice” to obtain health insurance. It replaces the faith of the
12 individual Plaintiffs in God and that he has commanded us to have faith in him and that he will
13 care for us with a mandated faith that the government will take care of everyone. This is a
14 civic/civil religion. According to the Yale Law Journal civil religions are nonsacral and
15 politically motivated:

16 134. A second characteristic of civil, secular religion is its essentially political,
17 nonsacral character. While traditional religions have, at least in the West, taken politics very
18 seriously, they have generally done so in the name of something sacred. Civil religions, on the
19 other hand, train their gaze on politics. Political life is the source of their concerns and provides
20 the raw material for rituals, moments and imagery. 95 Yale L.J. 1237 May, 1986, CIVIL
21 RELIGION AND THE ESTABLISHMENT CLAUSE by Yehudah Mirsky.

22 135. In *Malnak v. Yogi* 592 F.2d 197, 212 (3d. Cir., 1979), Circuit Judge Adams wrote
23 a thought provoking concurring opinion concerning what is and what is not religion when
24 considering the establishment clause in which he stated:

25 A more difficult question would be presented by government propagation of doctrinaire
26 Marxism, either in the schools or elsewhere. Under certain circumstances Marxism might
be classifiable as a religion and an establishment thereof could result.

27 (Emphasis added).

28

1 136. Marxism can be classifiable as a religion and if an establishment could result.
 2 Webster's defines Marxism as: The political, economic, and social principles and policies
 3 advocated by Marx; especially : a theory and practice of socialism including the labor theory of
 4 value, dialectical materialism, the class struggle, and dictatorship of the proletariat until the
 5 establishment of a classless society. (Merriam-Webster Online Dictionary. 2009.) Webster's
 6 defines 'dialectical materialism' as:

7 The Marxist theory that maintains the material basis of a reality constantly changing in a
 8 dialectical process and the priority of matter over mind." (Merriam-Webster Online
 Dictionary. 2009.)

9 Because Marxism proclaims that "reality" is "constantly changing" then dialectical
 10 materialism is a Marxist theory that promotes an "ultimate reality" (See *Rosenberger v. Rector*
 11 *and Visitors of University of Virginia* 515 U.S. 819, 819, (1995)) or an "ultimate concern" for
 12 believers and followers, which occupies a place parallel to that filled by God in traditionally
 13 religious persons according to the 7th Circuit in 1994.

14 A general working definition of religion for Free Exercise purposes is any set of beliefs
 15 addressing matters of "ultimate concern" occupying a "place parallel to that filled by ...
 16 God' in traditionally religious persons." *Welsh v. United States*, 398 U.S. 333, 340, 90
 S.Ct. 1792, 1796, 26 L.Ed.2d 308 (1970).

17 *Fleischfresser v. Directors of School Dist.* 200 15 F.3d 680, 688 (7th Cir.,1994)

18 In *Toward A Constitutional Definition of Religion* from the Harvard Law Review 91
 19 HVLR 1056 it is clear that political philosophies can become civic religions.

20 Even political and social beliefs may be religious. Tillich suggests: "If a national group
 21 makes the life and growth of the nation its ultimate concern ... [e]verything is centered in
 22 the only god, the nation" [FN91] This point has been variously made about "civil
 23 religion in America," [FN92] Communism, [FN93] Marxism, [FN94] Nazism, Italian
 24 Fascism, and Japanese militarism. [FN95]

25 [FN91]. P. *Tillich*, supra note 66, at 44.

26 [FN92]. Bellah, *Civil Religion in America*, 96 DAEDALUS 1, 1-9 (1967). See
 27 also Cousins, *La Politique Comme Religion aux Etats-Unis*, in *Religion Et*
 28 *Politique: Actes De Colloque Organise Par Le Centre International D'Etudes*
Humanistes Et Par L'Institut D'Etudes Philosophiques De Rome, Janvier 3-7,
 1978 (forthcoming, 1978).

[FN93]. *J. Bennettm Christianity and Communism 87-88 (1970)*. See also *J.*
Murry, the Necessity of Communism (1932) (arguing that Communism is the
 world's one living religion).

1 [FN94]. See *L. Dewart, the Future of Belief* 56-58 (1966).

2 [FN95]. See *E. Shillito, Nationalism: Man's Other Religion* (1933).

3
4 See also "*Liberal Fascism*" by Jonah Goldberg, Broadway Books, 2009, which points out that
5 fascistic socialism has become the U.S. state religion in America, beginning with Woodrow
6 Wilson and continuing to the present.

7 137. As Trotsky wrote: "**Marx is the prophet with the tables of the law and Lenin**
8 **the greatest executor of the testament**" (see the report at the Seventh All Russian Party
9 conference of April 5th, 1923 as published in *LENIN* by Blue Ribbon Books, New York, 1925).
10 Trotsky was second in authority only to Lenin in 1923 and even he calls Marx a prophet,
11 comparing him to Moses with the tables of the law see (Ex. 24: 12) and Lenin becomes the
12 executor of that religion's new "testament."

13 These statements of Trotsky must be given "great weight":

14 In such an intensely personal area, of course, the claim of the registrant that his belief is
15 an essential part of a religious faith **must be given great weight.**

16 *United States v. Daniel Seeger*, 380 U.S. 163, 184, 85 S.Ct. 850, 863 (1965)

17 The testimony of Professor Leslie Carr:

18 In reviewing the letter with Dr. Paloma, plaintiff claimed that his right to teach Marxism
19 was being infringed. In the apparently heated discussion that ensued he **professed that**
20 **Marxism was his religion** and Dr. Paloma told him that he could not teach Marxism as a
21 religion in the classroom anymore than she could teach Christianity.

22 *Carr v. Board of Trustees of University of Akron* 465 F.Supp. 886, 894 (N.O. Ohio 1979)

23 138. The PPACA will further will have a profound and injurious impact on IAP,
24 EAGLE, AND PEOPLE MEMBERS, and on individual plaintiffs with businesses. Individual
25 members and its uninsured small business owners, including TONY DANE, who are and will
26 continue to be subject to the PPACA's mandate to obtain qualifying healthcare coverage or pay a
27 penalty. Because of the mandate, these members and Individual Plaintiffs will be forced to divert
28 resources from their business endeavors, or otherwise to reorder their economic circumstances, in
order to obtain qualifying healthcare coverage, regardless of their own conclusions on whether or
not obtaining and maintaining such coverage for themselves and their dependents is a worthwhile

1 cost of doing business. The added costs of the mandate will threaten the members' ability to
2 maintain their own, independent businesses.

3 139. Although invalidation of the PPACA's Individual Mandate would indirectly affect
4 numerous other provisions of the PPACA, including the shared responsibility provisions of
5 Section 1501, the present suit seeking the invalidation of the requirement that individuals pay
6 money to private companies is not a "suit for the purpose of restraining the assessment or
7 collection of any tax . . ." within the meaning of the Anti-Injunction Act, 26 U.S.C. § 7421.

8 140. The Anti-Injunction Act's primary purpose-to ensure the prompt collection of
9 taxes that are currently due without pre-collection judicial interference-is not implicated here
10 because, among other things, Plaintiffs are currently injured by a non-taxing provision (the
11 PPACA's Individual Mandate), and no tax penalties are currently due to the government (or will
12 be in the next few years) such that their collection would be delayed by this lawsuit.

13 141. Furthermore, improper application of the Anti-Injunction Act to delay a ruling on
14 the constitutionality of the PPACA's Individual Mandate until months or years after numerous
15 individuals have involuntarily entered insurance contracts would leave those individuals, and the
16 insurance companies, without an effective remedy due to the time-specific nature of insurance
17 contracts.

18 142. Similarly, the Declaratory Judgment Act, 28 U.S.C. § 2201, is coterminous with
19 the Anti-Injunction Act and, as such, this case is not a controversy "with respect to federal taxes"
20 within the meaning of the Declaratory Judgment Act.

21 **COUNT ONE**

22 **THE PPACA VIOLATES THE COMMERCE CLAUSE AND CANNOT BE UPHeld**
23 **UNDER ANY OTHER PROVISION OF THE CONSTITUTION**

24 143. Plaintiffs incorporate by reference all averments contained in paragraphs 1
25 through 142, *supra*.

26 144. Section 1501 of the PPACA relies exclusively upon Congress's power to regulate
27 interstate commerce as the sole basis for Congressional authority to enact the PPACA's

28

1 Individual Mandate, and sets forth congressional findings regarding the effects of health spending
2 and health insurance regulation on the national economy and interstate commerce.

3 145. These findings do not alter the fact that the Commerce Clause does not provide
4 Congress with the authority to enact the Individual Mandate.

5 146. The Supreme Court of the United States has held that the Commerce Clause
6 allows Congress to regulate three categories of activity: 1) the channels of interstate commerce,
7 2) the instrumentalities of interstate commerce, or persons or things in interstate commerce, and
8 3) economic or commercial activities that substantially affect interstate commerce.

9 147. Additionally, Congress may enact laws that are necessary and proper to the
10 carrying out of its enumerated powers, including its power to regulate interstate commerce.

11 148. Mandating that individuals purchase health insurance is an unprecedented and
12 unconstitutional expansion of congressional power, as Congress has never before required
13 individuals to involuntarily buy a good or service under the guise of its Commerce Clause
14 authority.

15 149. The Congressional Research Service has stated regarding the Commerce Clause
16 basis for mandating the purchase of health insurance that,

17 [d]espite the breadth of powers that have been exercised under the Commerce Clause, it
18 is unclear whether the clause would provide a solid constitutional foundation for
19 legislation containing a requirement to have health insurance. Whether such a
20 requirement would be constitutional under the Commerce Clause is perhaps the most
21 challenging question posed by such a proposal, as it is a novel issue whether Congress
22 may use this clause to require an individual to purchase a good or service.

23 Cong. Research Serv., *Requiring Individuals to Obtain Health Insurance: A Constitutional*
24 *Analysis*, at 3, July 24, 2009, at http://assets.opencrs.com!rptsIR40725_20090724.pdf
25 (emphasis added).

26 150. The PPACA's Individual Mandate exceeds Congress's authority under the
27 Commerce Clause, as it does not regulate economic or commercial activities that substantially
28 affect interstate commerce.

151. The Supreme Court has never held that Congress's power to regulate commercial
or economic activities that substantially affect interstate commerce includes the much broader

1 power to reach inactivity and require persons who are not engaged in economic or commercial
2 activities to become so engaged.

3 152. Merely existing in the United States without health insurance is not an economic
4 or commercial “class of activity” that falls within Congress' authority to regulate under the
5 Commerce Clause.

6 153. In addition, the Supreme Court’s Commerce Clause cases do not support the
7 claim that the PPACA’s Individual Mandate falls within Congress' authority as an essential part
8 of a larger regulation of economic activity.

9 154. If Congress succeeds in asserting this unprecedented claim of authority, it would
10 set a sweepingly broad standard unsupported by the Constitution that would allow Congress to
11 dictate to individuals that they must, or must not, buy countless other goods or services in the
12 marketplace. To interpret the Commerce Clause to afford Congress such vast, all-encompassing
13 authority over the daily lives of Americans would eviscerate the idea of a federal government of
14 limited powers.

15 155. The PPACA’s Individual Mandate is not supported by Congress’s authority to
16 “make all laws which shall be necessary and proper for carrying into execution the foregoing
17 powers, and all other powers vested by this Constitution in the Government of the United States,
18 or in any department or officer thereof.” U.S. Const. Art. I, Sec. 8.

19 156. The PPACA’s Individual Mandate is not supported by any other enumerated
20 power of Congress set forth in Article I of the Constitution, nor did Congress invoke any other
21 power in support of the mandate that individuals must purchase and maintain health insurance.

22 157. Furthermore, the coerced payment of money to private insurance companies, as
23 the PPACA’s Individual Mandate requires, is not a “tax” and, as such, does not invoke Congress'
24 authority under Article I, Section 8 of the Constitution “[t]o lay and collect Taxes, Duties,
25 Imposts and Excises.”

26 158. The imposition of shared responsibility payments upon individuals who do not
27 comply with the PPACA’s Individual Mandate is not a constitutional exercise of Congress’s
28 taxing authority. If such payments are deemed to be a tax, they constitute an unlawful capitation

1 or direct tax in violation of Article I, Section 2, Clause 3 and Article I, Section 9, Clause 4 of the
2 Constitution.

3 159. The PPACA forces all Americans, including Plaintiffs IAP, EAGLE, AND
4 PEOPLE members and the Individual Plaintiffs, regardless of whether they want healthcare
5 coverage, to obtain and maintain a federally-approved level of coverage or pay a penalty. The
6 PPACA thus compels all Americans to perform an affirmative act or incur a penalty, simply on
7 the basis that they exist and reside within any of the United States. In so doing, the PPACA
8 purports to exercise the very type of general police power the Constitution reserves to the States
9 and denies to the federal government.

10 160. The PPACA is directed to a lack of, or failure to engage in, activity that is driven
11 by the choices of individual Americans. Such inactivity by its nature cannot be deemed to be in
12 commerce or to have such an effect on commerce, whether interstate or otherwise, as to be
13 subject to Congress's powers under the Commerce Clause, Const. art. I, § 8, or any other power
14 of Congress. Nor does the PPACA regulate (directly or indirectly) any properly regulable
15 interstate or foreign market or other commerce, any instrumentality of interstate or foreign
16 commerce, or the actual flow of goods, services, and human beings among the States. As a
17 result, the PPACA cannot be upheld under the Commerce Clause.

18 161. By requiring and coercing citizens and residents of the Plaintiff States to have
19 healthcare coverage, the PPACA exceeds Congress's limited powers enumerated in Article I of
20 the Constitution, and cannot be upheld under any other provision of the Constitution.

21 162. By requiring IAP, EAGLE, AND PEOPLE members and the Individual Plaintiffs
22 to have healthcare coverage, the PPACA deprives them of their rights under State law, and under
23 the rights retained by them and/or reserved the people under the Ninth and Tenth Amendments to
24 the Constitution, in violation of the Ninth and Tenth Amendments to the Constitution and the
25 constitutional principles of federalism and dual sovereignty on which this Nation was founded.

26 163. Congress may act to regulate only pursuant to its enumerated powers in Article I,
27 Section 8. *See United States v. Morrison*, 529 U.S. 598, 607 (2000) ("Every law enacted by
28 Congress must be based on one or more of its powers enumerated in the Constitution.");

1 McCulloch v. Maryland, 17 U.S. (4 Wheat.) 316 (1819). The federal legislative power derives
2 solely from the federal Constitution.

3 164. In PPACA Section 1501, Congress expressly relied on its authority under the
4 Commerce Clause in Article I (Article I, Section 8, Clause 3): “The individual responsibility
5 requirement provided for in this section ... is commercial and economic in nature, and
6 substantially affects interstate commerce, as a result of the effects described in paragraph (2).”
7 *See* PPACA § 1501(a)(1).

8 165. The Constitution Article I, Section 8, Clause 3 states that the United States
9 Congress shall have the power “[t]o regulate Commerce with foreign Nations, and among the
10 several States, and with the Indian Tribes.” In United States v. Lopez, the Supreme Court held
11 that Congress may regulate three categories of commerce: (1) the channels of interstate
12 commerce; (2) the instrumentalities of interstate commerce; and (3) “those activities having a
13 substantial relation to interstate commerce . . . *i.e.*, those activities that substantially affect
14 interstate commerce.” United States v. Lopez, 514 U.S. 549, 558-59 (1995) (interpreting federal
15 statute that criminalized the possession of firearms within a school zone). Only the third category
16 is implicated by Congress’s mandatory insurance provision. United States citizens who do not
17 possess and do not desire to possess health insurance, such as the Individual Plaintiffs and other
18 members of Plaintiffs IAP, EAGLE, AND PEOPLE, do not engage in activities that substantially
19 affect interstate commerce simply by residing in-state.

20 166. The provisions of PPACA must be examined under the Lopez rationale with
21 consideration given to the Supreme Court’s decision in Raich. *See* Gonzales v. Raich, 545 U.S. 1
22 (2005). In Lopez, the Supreme Court struck a federal statute (the Gun-Free School Zones Act)
23 that made it a federal criminal offense for an individual to knowingly to possess a firearm in a
24 place that the individual reasonably believed was a school zone. *See* Lopez, 514 U.S. at 560. The
25 Lopez Court evaluated the issue under the third prong, asking whether the regulated conduct
26 “substantially affects” interstate commerce. *Id.* The Court identified four factors in its
27 “substantially affects” analysis: (1) the statute should be connected with “commerce or any sort
28 of economic activity”; (2) the statute should contain a “jurisdictional element which would

1 ensure through case-by-case inquiry, that [the activity] affects interstate commerce;” (3)
2 Congress must make reasonable findings that the activity in question impacted the national
3 economy; or (4) the activity must have some nexus with the national economy. *Id.* at 561-64.
4 PPACA fails the “substantially affects” test for interstate commerce.

5 167. The mandatory health insurance requirement in the PPACA violates the
6 Commerce Clause by compelling the members of the IAP, EAGLE, AND PEOPLE and
7 Individual Plaintiffs who do not have and do not wish to acquire health insurance to purchase
8 same. Congress is thereby regulating the choice to purchase health insurance, and that is not an
9 economic regulation. The requirement is imposed on U.S. citizens who would otherwise have no
10 participation in health insurance. That inaction has no effect on interstate commerce. Without
11 the PPACA, citizen inactivity would have no bearing on the interstate market.

12 168. As a direct and proximate result of Defendants’ violation of the Constitution,
13 Plaintiffs have suffered immediate irreparable harm, including the loss of their constitutional
14 rights, entitling them to declaratory and injunctive relief.

15 169. The Plaintiffs request a declaratory judgment that PPACA is invalid, not legally
16 enforceable and without any force or effect against Plaintiffs, based on the Constitution Article I,
17 Section 8, Cause 3.

18 **COUNT TWO**

19 **THE PPACA VIOLATES THE FIRST AMENDMENT**
20 **FREEDOM OF ASSOCIATION**

21 170. Plaintiffs incorporate by reference all averments contained in paragraphs 1 through
22 169, *supra*.

23 171. The PPACA infringes Plaintiffs IAP, EAGLE, AND PEOPLE members’ and
24 Individual Plaintiffs’ freedom of association guaranteed by the First Amendment to the
25 Constitution. The PPACA requires Plaintiffs IAP, EAGLE, AND PEOPLE members to obtain
26 health insurance “qualified” by the federal government. *See* PPACA §1501 (26 U.S.C. § 5000A).
27 Individuals must subscribe to those “qualified” health insurance plans whether or not they agree
28 with the standards of care or kinds of services that the government prescribes as “qualified” for

1 176. By forcing Plaintiffs PEOPLE V. US (“PEOPLE”), the INDEPENDENT
2 AMERICAN PARTY OF NEVADA (IAP), NEVADA EAGLE FORUM (EAGLE), TONY
3 DANE, Joshua Hansen, JANINE HAWKINS, GALE CARLTON, TRACIE PISTOCCO, IVY
4 HIPPLER, and Christopher Hansen, MICHAEL HAWKINS, and LYN RANDAL to contribute
5 to the funding of abortion, the PPACA violates Plaintiffs’ fundamental rights of conscience and
6 the free exercise of religion protected by the First Amendment to the Constitution.

7 177. As a direct and proximate result of Defendants’ violation of the First
8 Amendment, Plaintiffs have suffered immediate irreparable harm, including the loss of their
9 constitutional rights, entitling them to declaratory and injunctive relief.

10 178. The Plaintiffs request a declaratory judgment that PPACA is invalid, not legally
11 enforceable and without any force or effect based on the Constitution First Amendment Free
12 Exercise Clause (U.S. Const. Amend. I).

13 **COUNT FOUR**

14 **THE PPACA VIOLATES THE RIGHT TO EQUAL PROTECTION**

15 179. Plaintiffs incorporate by reference all averments contained in paragraphs I through
16 178, *supra*.

17 180. By providing for some religious exemptions from the mandates of the PPACA,
18 but forcing Plaintiffs PEOPLE V. US (“PEOPLE”), the INDEPENDENT AMERICAN PARTY
19 OF NEVADA (IAP), NEVADA EAGLE FORUM (EAGLE), TONY DANE, Joshua Hansen,
20 JANINE HAWKINS, GALE CARLTON, TRACIE PISTOCCO, IVY HIPPLER, and
21 Christopher Hansen, MICHAEL HAWKINS, and LYN RANDAL to contribute to the funding
22 of abortion in violation of their deeply held religious convictions, Defendants have deprived
23 Individual Plaintiffs of the equal protection of the law guaranteed under the Fifth Amendment to
24 the Constitution (U.S. Const. Amend. V).

25 181. Congress had no authority, and thus no basis, to discriminate against and penalize
26 individuals, including Plaintiffs PEOPLE, the INDEPENDENT AMERICAN PARTY OF
27 NEVADA, NEVADA EAGLE FORUM’s members, TONY DANE, Joshua Hansen, JANINE
28 HAWKINS, MICHAEL HAWKINS, TRACIE PISTOCCO, IVY HIPPLER, and Christopher

1 Hansen, who choose not to purchase health care coverage pursuant to the PPACA in violation of
2 the equal protection of the law guaranteed under the Fifth Amendment to the Constitution (U.S.
3 Const. Amend. V).

4 182. Congress had no authority, and thus no basis, to exempt some American citizens
5 from penalties or “taxes,” while imposing certain penalties and “taxes” on others based on
6 whether the person chooses to purchase health care coverage pursuant to the PPACA in violation
7 of the equal protection of the law guaranteed under the Fifth Amendment to the Constitution
8 (U.S. Const. Amend. V).

9 183. By funding and benefitting certain special interest organizations, including unions,
10 through tax exemptions, exemption from provisions of the PPACA itself, and other mechanisms
11 provided for in the PPACA based on their political viewpoints, which are favored by Congress
12 and Defendants, and denying similar funding and benefits to other individuals and organizations
13 that do not share similar viewpoints or favor with Congress and Defendants, including Plaintiffs
14 IAP, EAGLE, AND PEOPLE and Individual Plaintiffs, Defendants have abused their federal
15 authority in violation of the equal protection of the law guaranteed under the Fifth Amendment to
16 the Constitution (U.S. Const. Amend. V).

17 184. The Plaintiffs request a declaratory judgment that PPACA is invalid, not legally
18 enforceable and without any force or effect based on the Constitution Fifth Amendment Due
19 Process Clause (U.S. Const. Amend. V).

20 185. As a direct and proximate result of Defendants' violation of the Fifth Amendment
21 (U.S. Const. Amend. V), Plaintiffs have suffered immediate irreparable harm, including the loss
22 of their constitutional rights, entitling them to declaratory and injunctive relief.

23 **COUNT FIVE**

24 **THE PPACA GENERALLY VIOLATES THE FIFTH AMENDMENT**
25 **DUE PROCESS CLAUSE**

26 186. The Fifth Amendment provides that “No person shall be ... deprived of life,
27 liberty, or property, without due process of law “

28

1 187. The PPACA requires that all private citizens, including Plaintiffs PEOPLE V. US
2 (“PEOPLE”), the INDEPENDENT AMERICAN PARTY OF NEVADA (IAP), NEVADA
3 EAGLE FORUM (EAGLE), TONY DANE, Joshua Hansen, JANINE HAWKINS, GALE
4 CARLTON, TRACIE PISTOCCO, IVY HIPPLER, and Christopher Hansen, MICHAEL
5 HAWKINS, and LYN RANDAL, purchase and maintain a federally-approved level of health
6 coverage for themselves and their dependents, regardless of whether they want or need that
7 coverage, or pay a penalty.

8 188. By requiring and coercing Plaintiffs PEOPLE V. US (“PEOPLE”), the
9 INDEPENDENT AMERICAN PARTY OF NEVADA (IAP), NEVADA EAGLE FORUM
10 (EAGLE), TONY DANE, Joshua Hansen, JANINE HAWKINS, GALE CARLTON, TRACIE
11 PISTOCCO, IVY HIPPLER, and Christopher Hansen, MICHAEL HAWKINS, and LYN
12 RANDAL, members and the Individual Plaintiffs to obtain and maintain such healthcare
13 coverage, the PPACA deprives them of their right to be free of unwarranted and unlawful federal
14 government compulsion, and otherwise violates their rights protected under the Due Process
15 Clause of the Fifth Amendment to the Constitution of the United States.

16 189. The Plaintiffs request a declaratory judgment that PPACA is invalid, not legally
17 enforceable and without any force or effect based on the Constitution Fifth Amendment Due
18 Process Clause (U.S. Const. Amend. V).

19 190. As a direct and proximate result of Defendants’ violation of the Fifth Amendment
20 (U.S. Const. Amend. V). Plaintiffs have suffered immediate irreparable harm, including the loss
21 of their constitutional rights, entitling them to declaratory and injunctive relief.

22 **COUNT SIX**

23 **THE PPACA VIOLATES SPECIFIC ASPECTS OF THE FIFTH AMENDMENT**
24 **DUE PROCESS CLAUSE**

25 191. Plaintiffs incorporate by reference all averments contained in paragraphs 1
26 through 190, *supra*.

27 192. The Fifth Amendment states that “[n]o person shall be ... deprived of life, liberty,
28 or property, without due process of law.” U.S. Const. Amend. V. Under the Substantive Due

1 Process doctrine, the Supreme Court has held that certain fundamental rights are encompassed
2 within the term “liberty” in the Due Process Clause. Laws that deprive a person of liberty are
3 unconstitutional absent a compelling state interest where the means chosen are narrowly tailored
4 to achieve the ends and are the least restrictive alternatives. *See, e.g., Roe v. Wade*, 410 U.S.
5 113,155 (1973); *Carey v. Population Services Int’l*, 431 U.S. 678, 686 (1977).

6 193. The Courts have recognized a fundamental right to privacy or the right “to be let
7 alone.” *See Olmstead v. United States*, 277 U.S. 438, 478 (1928) (Brandeis, J. , dissenting). The
8 Court focuses on the relationships involved, finding that distinctively personal aspects of one’s
9 life fall within the right of privacy. *See Board of Directors of Rotary Int’l v. Rotary Club of*
10 *Duarte*, 481 U.S. 537, 543-46 (1987). Thus, if a choice is sufficiently private or personal, the
11 Courts must recognize the right as implicit in the concept of ordered liberty. The decisions not to
12 divulge medical confidences to a private insurer or its agents to obtain health insurance; not to
13 receive medical treatment or treatment of a particular kind; and not to pay for unwanted
14 treatments are private and personal choices.

15 194. The Supreme Court has found fundamental the right to refuse medical treatment.
16 The Constitution provides protection against unwanted bodily intrusion. *See, e.g., Cruzan v.*
17 *Director, Missouri Dep’t of Health*, 497 U.S. 261, 278 (1990) (“[t]he principle that a competent
18 person has a constitutionally protected liberty interest in refusing unwanted medical treatment
19 may be inferred from our prior decisions”); *Rochin v. California*, 342 U.S. 165,209-10 (1952)
20 (protection against forced stomach pumping). Concomitant with the right to refuse medical
21 treatment is the right to refuse payment for unwanted medical treatment whether that payment is
22 required directly by the government or through a proxy such as a government mandated
23 “qualified” health insurance plan.

24 195. The decision whether to participate in specified health insurance programs also
25 violates the right to privacy because an individual’s choice of doctor and type of care is an
26 intimate and personal one. The Plaintiffs have a constitutionally protected right to refuse medical
27 care or to obtain medical care of their own choosing. The Defendants cannot infringe on those
28 decisions by compelling individuals to contract for “qualified” private health insurance just as

1 they cannot compel a person to accept a public health insurance plan (all Medicare and Medicaid
2 programs may be refused by those eligible to receive coverage). Moreover, one’s liberty right “to
3 life” would be deprived if PPACA advisory panels are not forbidden from determining what
4 level and kind of health care is to be provided, if at all, to the very seriously ill.

5 196. As a direct and proximate result of Defendants’ violation of the Fifth Amendment
6 (U.S. Const. Amend. V), Plaintiffs have suffered immediate irreparable harm, including the loss
7 of their constitutional rights, entitling them to declaratory and injunctive relief.

8 197. The Plaintiffs request a declaratory judgment that PPACA is invalid, not legally
9 enforceable and without any force or effect based on the Constitution Fifth Amendment Due
10 Process Clause (U.S. Const. Amend. V).

11 COUNT SEVEN

12 **THE PPACA VIOLATES THE RIGHT OF PRIVACY**

13 198. Plaintiffs incorporate by reference all averments contained in paragraphs 1
14 through 197, *supra*. The right of privacy was defined in the seminal US Supreme Court case of
15 Roe v. Wade, 410 U.S. 113 (1973).

16 199. The constitution protects the individual interest in avoiding disclosure of personal
17 matters. Whalen v. Roe, 429 U.S. 589, 599 (1977). In interpreting Whalen and other U.S.
18 Supreme Court rulings, the Ninth Circuit Court of Appeals has long recognized a
19 constitutionally protected interest in medical records and information. “Individuals have a
20 constitutionally protected interest in avoiding ‘disclosure of personal matters,’ including medical
21 information.” Tucson Women’s Clinic v. Eden, 379 F.3d 531, 551 (9th Cir. 2004); see also *id.* at
22 551-52, (citing Planned Parenthood of S. Ariz. v. Lawall, 307 F.3d 78, 790 (9th Cir. 2002) (“the
23 right to informational privacy ‘applies both when an individual chooses not to disclose highly
24 sensitive information to the government and when an individual seeks assurance that such
25 information will not be made public.’ . . . Even if a law adequately protects against public
26 disclosure of a patient’s private information, it may still violate informational privacy rights if an
27 unbounded, large number of government employees have access to the information.”); see also
28 Norman-Bloodsaw v. Lawrence Berkeley Laboratory, 135 F.3d 1260, 1269 (9th Cir. 1998) (“The

1 constitutionally protected privacy interest in avoiding disclosure of personal matters clearly
2 encompasses medical information and its confidentiality.”); Yin v. California, 95 F.3d 864, 870
3 (9th Cir. 1996) (noting that “individuals have a right protected under the Due Process Clause of
4 the Fifth or Fourteenth Amendments in the privacy of personal medical information and
5 records.”); Doe v. Attorney Gen. of United States, 941 F.2d 780, 795-796 (9th Cir. 1991)
6 (holding that an individual has privacy interest in medical information, including diagnosis);
7 Caesar v. Mountanos, 542 F.2d 1064, 1067 n.9 (9th Cir. 1976) (noting that the right to privacy
8 encompasses the doctor-patient relationship).

9 200. The federal government cannot constitutionally compel disclosure of IAP,
10 EAGLE, AND PEOPLE members’ and Individual Plaintiffs’ private medical information to a
11 private insurer, including, but not limited to, data concerning or derived from (1) blood samples,
12 (2) DNA samples, (3) urine samples, (6) physical examinations, and (6) past or current illnesses,
13 diseases, or medications, because the government’s general interest in disclosure fails to
14 outweigh the Plaintiffs’ specific constitutionally protected interests in privacy. The government
15 lacks a sufficient interest to justify forcing all uninsured members of Plaintiffs IAP, EAGLE,
16 AND PEOPLE to join a government “qualified” private health insurance plan, and its means are
17 not narrowly tailored to achieve that interest and are not the least restrictive alternatives. *See*
18 Lawall at 790 (*adopting United States v. Westinghouse Elec. Corp.*, 638 F.2d 570, 578 (3d Cir.
19 1980).

20 201. The PPACA compels all adult U.S. citizens not insured to enter contracts with
21 government “qualified” private insurance companies. As a matter of course, private insurance
22 companies and/or their non-employee independent agents request medical information
23 concerning all prospective insureds. That information is protected from disclosure by the
24 Plaintiffs IAP, EAGLE, AND PEOPLE’s members’ and Individual Plaintiffs’ respective rights to
25 privacy. In conventional insurance contracts, insureds voluntarily waive their rights and produce
26 information for the purpose of acquiring health insurance. No such volitional waiver occurs
27 under the PPACA which compels Plaintiffs to enter contracts against their will and, thus, forces
28 them to disclose confidential medical information to private insurance companies and, by virtue

1 of the government's right of access, to the government itself.

2 202. One's medical information is personal and cannot lawfully be compelled to be
3 given to a private insurer. The Defendants cannot infringe on that decision by compelling
4 individuals to contract for "qualified" private health insurance and divulge their confidential
5 medical information, provide a urine sample, a blood sample, a DNA sample, or take a mental or
6 physical examination, just as they cannot compel a person to accept a public health insurance
7 plan.

8 203. The Supreme Court prohibits the government from doing indirectly what it cannot
9 do directly in violation of an individual's constitutional rights. *See Speiser v. Randall*, 357 U.S.
10 513,526 (1958) (finding that allowing government to condition tax exemptions on loyalty oath
11 allows government to "produce a result which [it] could not command directly"); *Perry v.*
12 *Sindermann*, 408 U.S. 593, 597 (1972) (holding that government "may not deny a benefit . . . on
13 a basis that infringes . . . constitutionally protected interests—especially, [the] interest in freedom
14 of speech"); *see also Los Angeles Police Dept. v. United Reporting Pub. Corp.*, 528 U.S. 32, 48
15 (1999) (*quoting Perry*, 408 U.S. at 597) ("A contrary view would impermissibly allow the
16 government to 'produce a result which [it] could not command directly"). PPACA's mandate
17 requiring all uninsured adult citizens to obtain "qualified" private health insurance compels the
18 disclosure of constitutionally protected confidential medical information including the possible
19 mandate to provide a urine sample, a blood sample, a DNA sample or the results of a mental or
20 physical examination, to "qualified" private insurers-information that would otherwise remain
21 confidential but for the government's mandate. Thus, the government violates Plaintiffs IAP,
22 EAGLE, AND PEOPLE members' and Individual Plaintiffs' constitutional right to privacy by
23 compelling disclosure of confidential medical information to "qualified" private insurance
24 companies.

25 204. As a direct and proximate result of Defendants' violation of the Constitution,
26 Plaintiffs have suffered immediate irreparable harm, including the loss of their constitutional
27 rights, entitling them to declaratory and injunctive relief.

28

1 210. Whether an exaction is an excise rather than a direct tax is determined by its
 2 operation and practical application rather than by any particular descriptive language contained in
 3 the tax law. *See Exxon Corp. v. City of Long Beach*, 812 F.2d 1256 (9th Cir. 1987). The
 4 language of the PPACA reveals that the tax penalty for not obtaining health insurance is actually
 5 a direct tax on citizens. The PPACA's penalty provision in Section 5000A is applied to taxpayers
 6 without any nexus to activity. Indeed, unlike commonly acceptable excise taxes, the penalty tax
 7 is assessed for non-activity rather than for an affirmative act. *See, e.g., Covell v. City of Seattle*,
 8 127 Wash. 2d 874 (1995) (tax based on voluntary action); *State v. Garza*, 496 N.W. 2d 448
 9 (1993) (franchise tax). An excise tax generally does not include inactivity as the triggering,
 10 taxable event or transaction. Indeed, because the tax applies to all United States citizens unless
 11 they take affirmative action (purchase health insurance), the penalty is a "capitation" tax which
 12 must be, but has not been, apportioned. *See Leedy v. Town of Bourbon*, 40 N.E. 640 (1895) (a
 13 "capitation tax" is generally defined as a tax on a person without regard to his or her property,
 14 employment, or occupation). Because Congress included no instructions to properly apportion
 15 the direct capitation tax in the PPACA, the tax is an unconstitutional exercise of Congressional
 16 taxing authority prohibited by Article I, Section, Clause 4 of the Constitution.

17 211. As a direct and proximate result of Defendants' violation of the Constitution,
 18 Plaintiffs have suffered immediate irreparable harm, including the loss of their constitutional
 19 rights, entitling them to declaratory and injunctive relief.

20 212. The Plaintiffs request a declaratory judgment that PPACA is invalid, not legally
 21 enforceable and without any force or effect against them based upon the Constitution, Article I,
 22 Section 8, Clause 1.

23 COUNT NINE

24 **THE PPACA VIOLATES THE TENTH AMENDMENT**

25 213. The Tenth Amendment to the Constitution states, "The powers not delegated to
 26 the United States by the Constitution, nor prohibited by it to the States, are reserved to the States
 27 respectively, *or to the people.*" (Emphasis added.)

28

1 work—in order to pay for the coverage—or be subject to legal sanctions in the form of the
2 penalty under PPACA Section 5000A; or (2) placed in debt by the penalty and compelled to
3 work to pay the penalty under threat of legal sanction.

4 221. As a direct and proximate result of Defendants’ violation of the Thirteenth
5 Amendment to the Constitution (U.S. Const. Amend. XIII), Plaintiffs have suffered immediate
6 irreparable harm, including the loss of their constitutional rights, entitling them to declaratory
7 and injunctive relief.

8 222. The Plaintiffs request a declaratory judgment that PPACA is invalid, not legally
9 enforceable and without any force or effect against them based upon the Thirteenth Amendment
10 to the Constitution (U.S. Const. Amend. XIII).

11 **COUNT ELEVEN**

12 **VIOLATION OF THE RELIGIOUS FREEDOM RESTORATION ACT**

13 223. Plaintiffs incorporate by reference all averments contained in paragraphs 1
14 through 222, *supra*.

15 224. The Religious Freedom Restoration Act (“RFRA”), 42 U.S.C. § 2000bb et seq.,
16 prohibits the Federal Government from substantially burdening a person's exercise of
17 religion—even through neutral laws of general applicability—unless the Government demonstrates
18 that imposing the burden upon the person is the least restrictive means of advancing a compelling
19 governmental interest. Under the requirements of the Religious Freedom Restoration Act, the
20 federal government cannot demonstrate a compelling interest in forcing everyone in America to
21 have health insurance. Furthermore, it cannot demonstrate that its PPACA program of forced
22

23 medical insurance is being applied in the least restrictive way in order to impose the least
24 possible burden on the Plaintiffs’ religious freedom.

25 225. RFRA states that “[a] person whose religious exercise has been burdened in
26 violation of this section may assert that violation as a claim or defense in a judicial proceeding
27 and obtain appropriate relief against a government.” 42 U.S.C. § 2000bb-1©.

28

1 226. The PPACA’s Individual Mandate violates the rights of Plaintiffs PEOPLE V. US
2 (“PEOPLE”), the INDEPENDENT AMERICAN PARTY OF NEVADA (IAP), NEVADA
3 EAGLE FORUM (EAGLE), TONY DANE, Joshua Hansen, JANINE HAWKINS, GALE
4 CARLTON, TRACIE PISTOCCO, IVY HIPPLER, and Christopher Hansen, MICHAEL
5 HAWKINS, and LYN RANDAL as set forth in RFRA

6 227. The PPACA’s requirement that Plaintiffs purchase minimum essential coverage,
7 under the threat of significant financial penalties, substantially burdens the exercise of their
8 religion. They are forced to either join a health insurance system that contradicts the tenets of
9 their faith or pay substantial penalties for following the tenets of their faith. Religious Plaintiffs
10 have various religious objections to PPACA, as set forth above, and the PPACA is burdening
11 their religious exercise, as further set forth above.

12 228. The substantial burden that the PPACA’s Individual Mandate imposes upon
13 Plaintiffs is immediate and concrete, as their financial affairs and lifestyles are presently affected
14 because they are compelled to start preparing themselves now to pay thousands of dollars over
15 the next several years as the PPACA requires.

16 229. The PPACA’s Individual Mandate does not advance a compelling governmental
17 interest, and imposing a substantial burden upon Plaintiffs is not the least restrictive means of
18 advancing any interest the government might have.

19 230. As a direct and proximate result of Defendants’ violation of RFRA, Plaintiffs are
20 suffering immediate, continuing, and irreparable harm, including the loss of their constitutional
21 rights, entitling them to the relief sought in herein.

22 COUNT TWELVE

23 **VIOLATION OF THE ESTABLISHMENT CLAUSE**

24 231. Plaintiffs incorporate by reference all averments contained in paragraphs 1
25 through 230, *supra*.

26 232. The First Amendment of the Constitution prohibits Congress from “make[ing] []
27 any law respecting an establishment of religion.” As set forth clearly above in paragraphs 136
28 through 138, the Obamacare law, PPACA, constitutes a major step in the establishment of

1 socialism as the official state religion of the United States of America. The Plaintiffs believe that
2 the United States Government is Establishing a Civic Religion in Violation of the First
3 Amendment. There are many religions today including versions of theism, pantheism, atheism
4 (See *Malnak v. Yogi* 592 F.2d 197, 206 (C.A.N.J., 1979)) and religious status has been granted
5 by the courts to deeply held moral, ethical, or religious beliefs. (*Welsh v. U.S.* 398 U.S. 333, 344,
6 90 S.Ct. 1792, 1798 (1970)) The question is: How do we determine what is a religion and what is
7 not?

8 233. In *Malnak v. Yogi* 592 F.2d 197, 210 (3d Cir., 1979) Circuit Judge Adams gives
9 some possible qualifications for what a religion is in his concurring opinion:

10 Such signs might include formal services, ceremonial functions, the existence of clergy,
11 structure and organization, efforts at propagation, observation of holidays and other
12 similar manifestations associated with the traditional religions. **Of course, a religion
13 may exist without any of these signs, so they are not determinative**, at least by their
14 absence, in resolving a question of definition. But they can be helpful in supporting a
15 conclusion of religious status given the important role such ceremonies play in religious
16 life.

14 234. The PPACA, under penalty of legal sanctions, compels Plaintiffs to obtain
15 minimum essential coverage, or pay the shared responsibility payment to pay for the health
16 insurance of others.

17 235. As a direct and proximate result of Defendants' violation of the First Amendment
18 to the Constitution (U.S. Const. Amend. I), Plaintiffs have suffered immediate irreparable harm,
19 including the loss of their constitutional rights, entitling them to declaratory and injunctive relief.

20 236. The Plaintiffs request a declaratory judgment that PPACA is invalid, not legally
21 enforceable and without any force or effect against them based upon the First Amendment to the
22 Constitution (U.S. Const. Amend. I).

23 **RELIEF REQUESTED**

24 **WHEREFORE**, Plaintiffs respectfully request that this Honorable Court,

25 (1) For an order certifying this case is a class action pursuant to Federal Rule of Civil
26 Procedure 23;

27 (2) For an order appointing Plaintiffs as class representative and HANSEN
28 RASMUSSEN, LLC, as class counsel;

1 (3) For a declaration that the PPACA unconstitutionally exceeds Congress’s authority
2 under Article I, Section 8, because the Congress has no power to legislate that individuals
3 purchase a particular product, here health insurance, with after-tax dollars:

4 (4) For a declaration that the PPACA violates Article I, Section 8, Clause 3 because it
5 regulates those who do not have health insurance and do not wish to have health insurance
6 despite the absence of activity on their part affecting interstate commerce in health insurance or
7 health care;

8 (5) For a declaration that the PPACA is unconstitutional under the First Amendment
9 because it unlawfully infringes on the Plaintiff freedom not to associate with private health
10 insurers “qualified” under the PPACA;

11 (6) For a declaration that the PPACA is unconstitutional under the First Amendment
12 because it unlawfully infringes on the Plaintiffs fundamental rights of conscience and the free
13 exercise of religion;

14 (7) For a declaration that the PPACA is unconstitutional under the Fifth Amendment
15 because it unlawfully infringes on the Plaintiffs right to Equal Protection.

16 (8) For a declaration that the PPACA is unconstitutional under the Fifth Amendment
17 because it unlawfully infringes on the Plaintiffs fundamental rights to Due Process of Law;

18 (9) For a declaration that the PPACA is unconstitutional under the Fifth Amendment
19 because it deprives the Plaintiffs of their fundamental right to refuse payment for private health
20 insurance for unwanted medical services;

21 (10) For a declaration that the PPACA is unconstitutional because it violates the
22 Plaintiffs’ right to privacy protected by the Fifth Amendment liberty provision, the Ninth
23 Amendment rights retained by the people, and the rights emanating from First, Third, Fourth,
24 Fifth, and Ninth Amendments to the Constitution in that it compels disclosure of confidential
25 medical information to private insurers and interferes with a person’s control over his/her own
26 body.

27

28

1 (11) For a declaration that the PPACA unconstitutionally exceeds the federal
2 government's authority to tax citizens directly on a capitation basis without apportioning
3 proceeds among the states by population under Article I, Section 8, Clause I, U.S. Constitution;

4 (12) For a declaration that the PPACA is unconstitutional under the Tenth
5 Amendment because it was not enacted under any powers delegated to Congress under the
6 Constitution;

7 (13) For a declaration that the PPACA is unconstitutional under the Thirteenth
8 Amendment because it deprives the Plaintiffs of their fundamental right to be free from
9 involuntary servitude;

10 (14) For a declaration that the PPACA violates the RFRA and the rights of their
11 religious objector Plaintiffs under the RFRA.

12 (15) Preliminarily and permanently enjoin the Defendants from enforcing the PPACA
13 against Plaintiffs;

14 (16) Award Plaintiffs' counsel fees and costs as is deemed appropriate and just under
15 the Equal Access to Justice Act;

16 (17) Retain jurisdiction of this action to ensure compliance with this Court's decree;
17 and

18 (18) Grant such other and further relief as the Court deems equitable, just and proper.

19 DATED this 31st day of August, 2010.

20 HANSEN RASMUSSEN, LLC

21 BY: /s/ Joel F. Hansen
22 JOEL F. HANSEN, ESQ.
23 Nevada Bar No. 1876
24 1835 Village Center Circle
25 Las Vegas, NV 89134
26 Attorney for Plaintiffs
27
28

CIVIL COVER SHEET

JS 44 (Rev. 12/07)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

People V. U.S., Independent American Party of Nevada, Nevada Eagle Forum, Tony Dane, Joshua Hansen, Janine Hawkins, Gale

(b) County of Residence of First Listed Plaintiff Clark
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
Joel F. Hansen, Esq., Hansen Rasmussen, LLC, 1835 Village Center Circle, Las Vegas, NV 89134 (702) 385-5533

DEFENDANTS

Barack H. Obama, United States Department of Health and Human Services, Kathleen Sebelius, United States

County of Residence of First Listed Defendant Clark
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 660 Occupational Safety/Health		<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability		<input type="checkbox"/> 690 Other	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 495 Selective Service
<input type="checkbox"/> 190 Other Contract			<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 530 General Habeas Corpus:	<input type="checkbox"/> 791 Emp. Ret. Inc. Security Act	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 535 Death Penalty			<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 462 Naturalization Application		<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee		<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
	<input checked="" type="checkbox"/> 440 Other Civil Rights				<input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1331 and 1346

Brief description of cause:
For declaratory and injunctive relief

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 08/31/2010 SIGNATURE OF ATTORNEY OF RECORD Joel F. Hansen

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____