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APR 22 2010	
CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA	
BY	S. DEPUTY

1 Fountain Hills Tea Party Patriots, L.L.C.
 2 Harris Deitch, member
 3 13225 N. Fountain Hills Blvd., #260
 4 Fountain Hills, AZ 85268
 5 (480)837-0065
 6 *Plaintiff Pro Per*

7 **IN THE UNITED STATES DISTRICT COURT**
 8 **Arizona Division**

9 **FOUNTAIN HILLS TEA PARTY**
 10 **PATRIOTS, L.L.C.**

11 **Plaintiff,**

12 **vs.**

13 **UNITED STATES DEPARTMENT**
 14 **OF HEALTH AND HUMAN**
 15 **SERVICES, KATHLEEN**
 16 **SEBELIUS, in her official capacity**
 17 **as the Secretary of the United States**
 18 **Department of Health and Human**
 19 **Resources; UNITED STATES**
 20 **DEPARTMENT OF THE TREASURY,**
 21 **TIMOTHY F. GEITHER, in his**
 22 **official capacity as the Secretary of the**
 23 **United States Department of the**
 24 **Treasury; UNITED STATES**
 25 **DEPARTMENT OF LABOR, Hilda L.**
 26 **SOLIS, in her official capacity as**
 27 **Secretary of the United States**
 28 **Department of Labor,**

Defendants

Case #:

CIV'10 0893 PHX

BKD

COMPLAINT

Plaintiff, Fountain Hills Tea Party Patriots, L.L.C., files this action against Defendants, UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS), KATHLEEN SEBELIUS, in her official capacity as the Secretary

1 of HHS; UNITED STATES DEPARTMENT OF THE TREASURY (Treasury),
2 TIMOTHY F. GEITHNER, in his official capacity as the Secretary of the Treasury;
3 UNITED STATES DEPARTMENT OF LABOR (DOL), and HILDA L. SOLIS, in
4 her official capacity as the Secretary of Department of Labor, and states:

5
6 **NATURE OF THE ACTION**

7 1. On March 23, 2010, a new universal healthcare regime, titled the "Patient
8 Protection Affordable Care Act," H.R. 3590 (the Act), was signed into law by the
9 President. The Act, which exceeds 2,400 pages, is available online .

10
11 2. The Act represents an unprecedented encroachment on the liberty of the Plaintiff
12 by mandating that all citizens and legal residents of the United States have qualifying
13 healthcare coverage or pay a tax penalty. The Constitution nowhere authorizes the
14 United States to mandate, either directly or under threat of penalty, that all citizens
15 have qualifying healthcare coverage. By imposing such a mandate, the Act exceeds
16 the powers of the United States under the Preamble that states, '*...secure the blessings*
17 *of liberty...*'.

18
19 3. In addition, the tax penalty required under the Act, which must be paid by
20 uninsured citizens and residents, constitutes an unlawful capitation or direct tax, in
21 violation of '*...secure the blessings of liberty...*' of the Constitution of the United
22 States in the Preamble.

23
24 4. Plaintiff seeks declaratory and injunctive relief against the Act's operation to
25 protect the individual freedom, public health and welfare of the Plaintiff.
26
27

JURISDICTION AND VENUE

1
2 5. The Court has subject-matter jurisdiction pursuant to 28 USC §1331 because this
3 action arises out of the Constitution and laws of the United States.
4

5 6. Venue is proper in this district pursuant to 28 USC § 1391 (e)(3) because no real
6 property is involved, the district is situated in Arizona and the Defendants are
7 agencies of the United States or officers thereof acting in their official capacity.
8

PARTIES

9
10 7. Fountain Hills Tea Party Patriots, L.L.C. is a legal entity registered in the State
11 of Arizona.
12

13 8. HHS is an agency of the United States and is responsible for administration and
14 enforcement of the Act through its center for Medicare and Medicaid services.
15

16 9. Kathleen Sebelius is Secretary of HHS and is named as a party of her official
17 capacity.
18

19 10. Treasury is an agency of the United States and is responsible for administration
20 and enforcement of the Act.
21

22 11. Timothy F. Geithner is Secretary of the Treasury and is named as a party in his
23 official capacity.
24

25 12. DOL is an agency of the United States and is responsible for administration and
26 enforcement of the Act.
27

1 13. Hilda L. Solis is Secretary of DOL and is named as a party in her official
2 capacity.

3
4 **The Patient Protection and Affordable Care Act**

5 14. The Act mandates that all United States citizens and legal residents have
6 qualifying healthcare coverage. If a person fails to do so, the federal government will
7 force that person to pay a penalty, the amount of which will be increased gradually
8 through 2016 reaching \$750 per year up to a maximum of three times that amount
9 (\$2,250) per family or two percent of household income whichever is greater. After
10 2016 the penalty will increase annually based on cost-of-living adjustment.
11 Exemptions to the tax penalty only apply for individuals with certain religious
12 objections, American Indians, those persons without coverage for less than three
13 months, undocumented immigrants, incarcerated individuals or some individuals with
14 financial hardships.

15
16 **CAUSES OF ACTION**

17
18 **ONE COUNT**

19 **UNCONSTITUTIONAL EXERCISE OF FEDERAL POWER**
20 **AND VIOLATION OF THE PREAMBLE TO THE**
21 **CONSTITUTION**

22 15. Plaintiff re-alleges, adopts and incorporates by reference paragraphs 1 through
23 14 above as though fully set forth herein.

24 16. The Act exceeds Congress's powers under the Preamble to the Constitution of
25 the United States and cannot be upheld.

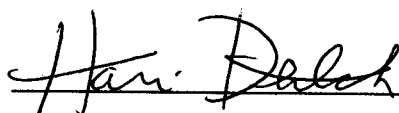
1 WHEREFORE, Plaintiff respectfully requests the Court:

2 A. to rule in Plaintiff's favor and against Defendants including a declaration
3 that the actions of the Defendants as described herein are unconstitutional, void and
4 that the same are in contravention of Plaintiff's constitutional rights; as a direct result
5 of Defendants' actions, Plaintiff suffered direct and immediate violations of their
6 constitutional rights and is therefore entitled to injunctive and declaratory relief
7 pursuant to Federal Rules of Civil Procedure 57 and 65; and to redress and remedy
8 of the violation and to prevent irreparable harm and future violations of their rights
9 and the rights of others temporary and permanent injunctive relief; an order requiring
10 the Defendants to halt enforcement of The Act.

11
12 B. Declare the 'Patient Protection and Affordable Care Act' to be in violation
13 of the Preamble to the Constitution of the United States since mandating coverage
14 and taxing non-participants does not '*...secure the blessings of liberty...*' as there are
15 no 'liberties' in the Act and,

16
17 C. Enjoin Defendants and any other agency or employee acting on behalf of
18 the United States from enforcing the Act against the Plaintiff and to take such actions
19 as are necessary and proper to remedy their violations deriving from any such actual
20 or attempted endorsement.

21
22 Respectfully submitted this 22nd day of April, 2010

23
24 

25 Fountain Hills Tea Party Patriots, L.L.C., Harris Deitch,
26 Member, Pro Per