

Fighting Irish Lose Off Field Battle Against Contraception Mandate

By Donald Scarinci:

In addition to losing a tough battle on the football field, the [Fighting Irish](#) did not fare very well in the courtroom either. The University of Notre Dame, a Catholic University, recently attempted to challenge part of the new [federal healthcare reform](#) on religious grounds.

The U.S. Supreme Court's decision to uphold the Patient Protection and Affordable Care Act (PPACA) was one of the top legal stories of 2012. However, as the Notre Dame lawsuit highlights, the legal battle over the controversial healthcare law is far from over. Instead, the focus will shift to the so-called "[contraceptive mandate](#)," which will require employers to offer health insurance plans that provide coverage for contraceptives and "morning after" pills.

Notre Dame is just one of over thirty plaintiffs seeking to overturn the contraception mandate. Although the regulations contain an exemption for religious institutions, colleges and universities with religious ties and other non-profit organizations have so far only been given a one-year "safe harbor" from enforcement.

In its lawsuit, the university argued that the PPACA forces it to "provide, or facilitate the provision of, abortion-inducing drugs, sterilization, and contraceptive services to its employees in violation of the centuries' old teachings of the Catholic Church." Thus, the school contends the requirement is "irreconcilable with the First Amendment, the Religious Freedom Restoration Act, and other laws."

Because the federal government has indicated that it will reconsider the mandate as it applies to religiously affiliated organizations, the court dismissed the case as premature. "Notre Dame's claims aren't ripe, and they don't have standing to bring them," federal district judge Robert L. Miller, Jr. ruled last month. Notre Dame has not yet indicated whether or not it will appeal.

While Notre Dame came up short, other [companies and organizations](#) have been successful. A New York judge was unimpressed with government's promise to make accommodations for religious organizations, noting, "There is no 'Trust us changes are coming' clause in the Constitution." Most recently, the 7th U.S. Circuit Court of Appeals granted an injunction to the owners of a construction company who argued they were faced with the choice of maintaining insurance coverage that violated their faith or facing steep financial penalties.

The Obama Administration is expected to publish proposed rules on the contraception mandate this spring. If non-profit organizations and companies with religious ties are not satisfied with the result, the healthcare law seems poised to end up right back in front of the U.S. Supreme Court.

