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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

**NEW JERSEY PHYSICIANS, INC., MARIO
A. CRISCITO, M.D., AND PATIENT ROE**

Plaintiffs

v.

**THE HON. BARACK OBAMA, President
of the United States, *in his official
capacity***

**THE HON. TIMOTHY GEITHNER,
Secretary of
the Treasury of the United States,
*in his official capacity,***

**THE HON. ERIC HOLDER, Attorney
General of
the United States, *in his official capacity,***

and

**THE HON. KATHLEEN SEBELIUS,
Secretary of
the United States Department of Health
and Human Services,
*in her official capacity,***

Defendants

COMPLAINT AND
CERTIFICATION
PURSUANT TO L. CIV. R.
11.2

Civil Action

Civ. No.:

New Jersey Physicians, Inc., Mario A. Criscito, M.D. and Patient Roe, Plaintiffs herein, by and through their undersigned counsel, complain of the Defendants as follows:

PARTIES

1. Plaintiff New Jersey Physicians, Inc., ("NJP") is a non-profit corporation organized in and a citizen of the State of New Jersey. NJP is engaged in advocacy, policy research, and general and professional education relating to the public health and welfare. It has as a primary purpose the protection and advancement of patient access to affordable, quality healthcare. It is an advocate for its physician members and their patients, whom they are privileged to serve. NJP numbers among its members physicians who hold plenary licenses to practice medicine and surgery issued by the sovereign State of New Jersey and who are, themselves, patients and consumers of healthcare services. NJP's members and their patients will be directly affected by the legislation at issue in this complaint, should the same become effective. The interests of NJP's members will be adequately protected by NJP's participation in this lawsuit; the participation of each and every one of NJP's physician members in this lawsuit, on an individual basis, is not required in order for this Court to address the issues posed by this action or grant redress which will affect all of those members.

2. Plaintiff, Mario A. Criscito, M.D. ("Dr. Criscito"), of full legal age, is a member of Plaintiff NJP and is a physician who holds a plenary license to practice medicine and surgery that was issued by the sovereign State of New Jersey, specializing and Board-certified in the practice of cardiology. Dr. Criscito, in the course of his individual practice of medicine, treats patients who are citizens of the State of New Jersey and the United States of America. Some of those patients pay Dr. Criscito for his

care and do not rely on a third-party payor to do so on their behalf. Plaintiff Roe is a patient of Dr. Criscito who pays himself for his care.

3. Mr. Roe, of full legal age, is a citizen of the State of New Jersey who chooses who and how to pay for the medical care he receives from Dr. Criscito and others.

4. Defendant Barack Obama is the President of the United States, who in his official capacity, after adoption in full accord with the Constitution by the Senate and House of Representatives (the "House") may sign bills into law. As the head of the Executive Branch, he is empowered to direct and enforce the laws of the United States, but the power must stem "either from an act of Congress or from the Constitution itself." *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 585 (1952).

5. Defendant Timothy Geithner is the United States Secretary of the Treasury, and is responsible for formulating economic and tax policy, managing the public debt and overseeing the collection of taxes and enforcement of the tax laws of this country.

6. Defendant Eric Holder is the United States Attorney General, heads the United States Department of Justice and is the chief law enforcement officer of the United States Government, with the responsibility for bringing civil and criminal actions to assure that the laws of the United States are upheld.

7. Defendant Kathleen Sebelius is the United States Secretary of Health and Human Services, responsible for the operation of the largest civilian department in the federal government and the administration of federal health programs, including Medicare and Medicaid.

8. Each of the Defendants is sued in his or her official capacity only.

JURISDICTION AND VENUE

9. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 2201, and 2202. This case arises under the Constitution and laws of the United States.

10. Venue lies in this Court pursuant to 28 U.S.C. § 1391.

FACTS

11. In an unprecedented effort to collectivize health care nationally and among others, and to mandate that individual citizens of the sovereign states purchase insurance to pay for this collectivized health care the Defendant Obama, individually and in conjunction with others, including the other defendants, encouraged Congress to adopt H.R. 3590 (known various as the "Senate Healthcare Reform Bill," the "Senate Bill" and the "Healthcare Reform Bill" and herein referred to as the "Bill").

12. In or about December, 2009, the United States Senate passed the Bill.

13. On March 21, 2010, the United States House of Representatives passed a so-called Reconciliation Bill which purported to constitute the House's adoption of the Senate Bill.

14. On March 23, 2010, Defendant Obama signed the Bill.

COUNT I

15. The foregoing paragraphs of this complaint are incorporated herein by this reference as if fully and completely set forth.

16. The Bill, to the extent it mandates individual citizens of the United States to purchase policies of health insurance, or face legal penalties in the event they choose not to purchase such policies of health insurance, exceeds the enumerated powers of the

federal government as set forth in the Constitution of the United States, and as such is an illegal exercise of power and is void and of no force or effect.

17. The Bill, to the extent it mandates individual citizens of the United States to purchase policies of health insurance, or face legal penalties in the event they choose not to purchase such policies of health insurance, is not a valid exercise of Congressional power pursuant to the Commerce Clause of in the Constitution of the United States, and as such is an illegal exercise of power and is void and of no force or effect.

WHEREFORE the Plaintiffs pray that this Court enter judgment in their favor and against the defendants:

a. Adjudging and declaring that the Bill is Unconstitutional, void and a legal nullity;

b. Permanently enjoining the defendants and any of their agents, subordinates, employees and all acting in concert with same from enforcing the Bill under color of law;

c. Granting the Plaintiffs there costs, attorneys fees and whatever other monies this Court may deem appropriate in the attendant circumstances; and

d. Granting such other and further relief as this Court may deem appropriate.

COUNT II

18. The foregoing paragraphs of this complaint are incorporated herein by this reference as if fully and completely set forth.

19. Two branches of the United States Government have and are presently intending to transgress the requirements of the U.S. Constitution, rendering the liberty of citizens at stake. *Clinton v. City of New York*, 524 U.S. 417, 450 (1998)(Kennedy, J., concurring).

20. The conduct of the House, the Senate and the Defendants violates Plaintiffs' Fifth Amendment rights under the United States Constitution, which provides that "No person shall be . . . deprived of life, liberty, or property, without due process of law. . . ."

21. Under color of law, the Defendants intend to collect taxes, remove and replace insurance benefits, mandate insurance coverage, and re-write health insurance contracts affecting and involving Plaintiffs and their members and employees. The "reconciled" Bill enacts broad and encompassing regulation forcing the collectivization of health care and the establishment of a system of socialized health care in this country. It changes the law and places new regulatory and tax burdens on millions, including large and small entities like the Plaintiff, individual physicians such as Dr. Criscito, and individuals and small employers like Dr. Criscito and Mr. Roe.

22. The Bill is not necessary or proper to a lawful exercise of any of the enumerated powers permitted the federal government, and undermines and compromises the sovereignty of the states.

23. Such actions by the Defendants violate the Plaintiffs' Constitutionally protected rights and are unlawful.

WHEREFORE the Plaintiffs pray that this Court enter judgment in their favor and against the defendants:

a. Adjudging and declaring that the Bill is Unconstitutional, void and a legal nullity;

b. Permanently enjoining the defendants and any of their agents, subordinates, employees and all acting in concert with same from enforcing the Bill under color of law;

c. Granting the Plaintiffs there costs, attorneys fees and whatever other monies this Court may deem appropriate in the attendant circumstances; and

d. Granting such other and further relief as this Court may deem appropriate.

COUNT III

24. The foregoing paragraphs of this complaint are incorporated herein by this reference as if fully and completely set forth.

25. The Constitutionally protected liberty interests of the Plaintiffs are at risk because the Bill undermines investments in contracts which must be re-written and taxes health insurance plans into the future which businesses must account for immediately. Employees may be terminated and myriad business relationships and investments may be undermined by the contents and through the enforcement of various provisions in the 2,000-plus page Bill, which originated in the Senate and not the House in an effort to circumvent the will of the people.

26. The Bill, as such, has not been adopted in a lawful and Constitutional manner, and denies the republican nature of our system of government.

27. The Plaintiffs and others similarly situated will be irreparably harmed by the Defendants' enforcement of the Bill. Moreover, the interests of justice compel the granting of the relief sought herein; otherwise each of the health insurance contracts being modified or entered into under the compulsion of the Bill will be subject to rescission or cancellation. Similarly, every dollar of taxation levied and collected under the Bill is a dollar not due its government and will be subject to protest and to claims for recovery.

WHEREFORE the Plaintiffs pray that this Court enter judgment in their favor and against the defendants:

a. Adjudging and declaring that the Bill is Unconstitutional, void and a legal nullity;

b. Permanently enjoining the defendants and any of their agents, subordinates, employees and all acting in concept with same from enforcing the Bill under color of law;

c. Granting the Plaintiffs their costs, attorneys fees and whatever other monies this Court may deem appropriate in the attendant circumstances; and

d. Granting such other and further relief as this Court may deem appropriate.

CERTIFICATION PURSUANT TO LOCAL CIVIL RULE 11.2

I certify that the matter in controversy is not the subject matter of any action pending in any Court, or in any arbitration or administrative proceeding.

Respectfully submitted,

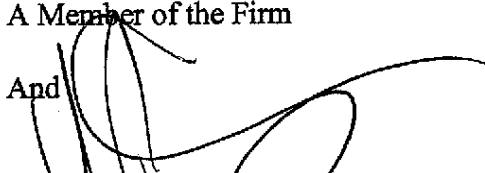
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