

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

RICHMOND DIVISION

COMMONWEALTH OF)
VIRGINIA EX REL. KENNETH)
T. CUCCINELLI, II,)
in his official capacity as Attorney)
General of Virginia,)
Plaintiff,)

v.)

No. 3:10-cv-00188-HEH

KATHLEEN SEBELIUS,)
Secretary of the Department)
of Health and Human Services,)
in her official capacity,)
Defendant.)

**MOTION AND MEMORANDUM IN SUPPORT FOR LEAVE TO FILE BRIEF OF
AMICUS CURIAE YOUNG INVINCIBLES IN SUPPORT OF DEFENDANT’S MOTION
FOR SUMMARY JUDGMENT**

FINANCIAL DISCLOSURE

The Internal Revenue Service has determined that the fiscal sponsor, Center for Community Change, of Young Invincibles, is organized and operated exclusively for charitable or educational purposes pursuant to Section 501(c)(3) of the Internal Revenue Code and are exempt from income tax. As such, *amicus* have nothing to report under Local Civil Rule 7.1(A)(1)(a).

Pursuant to Fed. R. App. P. 29(b) and Fed. R. Civ. P. 83(b), *amicus curiae* Young Invincibles respectfully moves this Court for leave to file an amicus brief in support of Defendant’s Motion for Summary Judgment. This case addresses the constitutionality of the minimum coverage provision, Section 1501 of the Patient Protection and Affordable Care Act (“PPACA”), a provision that is essential for achieving goals of the PPACA that produce enormous benefits for young adults ages 18 to 34. *See* 26 U.S.C. § 5000A, 42 U.S.C. § 1396a (2010). The provision requires most Americans and many young adults to carry a minimum level of insurance or pay a tax. §1501(a)(2)(G). As a leading young adult voice in the federal health reform debate, Young Invincibles is uniquely positioned to address the implications of these provisions on this demographic group.

INTEREST OF *AMICUS*

Young Invincibles is a non-profit, non-partisan organization that advocates on behalf of young adults ages 18 to 34.¹ Founded by a group of students and young adults during the health care reform debate, Young Invincibles sought to provide a voice for young adults in a process that too-often excluded young people. The name “Young Invincibles” comes from an insurance industry term, describing the idea that so many young adults are uninsured because of their perceived “invincibility.” But the real experiences of young adults revealed that in fact the opposite is true - young people wanted quality insurance but could not afford it under the status quo that existed before the Patient’s Protection and Affordable Care Act (“PPACA”). Young Invincibles quickly built a coalition of over twenty national youth-focused organizations with a combined membership of more than 1.5 million young adults. The coalition adopted a policy

¹ For more information about the organization, *see* www.younginvincibles.org/About, accessed last September 13, 2010.

platform that would provide comprehensive, affordable coverage for the generation with the lowest insurance coverage rate of any age group. *See* YI Want Change, www.yiwantchange.org.

Young Invincibles has continued its work to give young adults a voice in the legislative, regulatory and legal processes by informing lawmakers and relevant actors about the unique needs of young adults and organizing grassroots campaigns to educate its constituency. The focus of this work is formed through interaction with thousands of young adult members around the country and extensive research on relevant issues. The goal is to represent young adults as an age group in the same way that AARP stands for the interests of Americans over the age of 50. Currently, no advocacy organization provides a comparable voice for young adults. This underrepresentation is linked to the lack of economic resources and opportunity. Over 12.2 million young adults live below the poverty line, and working adults in their twenties earn on average about 20% less than their older counterparts. Young Invincibles analysis of U.S. Census. (2009-2010). *Current Population Survey: Annual Social and Economic Supplement*, (last accessed September 20, 2010), *available at* http://www.census.gov/hhes/www/cpstc/cps_table_creator.html. Unemployment for individuals ages 18 to 34 rose 5.9% in the past three years alone, and is currently 3.2% higher than the population as a whole. *Id.* (the numbers are even higher for 19 to 29 year olds).

Now, of all of the parties and *amici* to the lawsuits surrounding the PPACA, no other organization will present the desperate situation young adults faced in the pre-PPACA health care status quo. About 21 million young adults are uninsured, but the provisions in the PPACA, if fully implemented, would help provide coverage to over 70% of the uninsured young adults in the country, and provide both improved consumer protections and more affordable, better quality health care for millions more young adults. *See* YI Want Change, *Comprehensive Insurance: Not*

Insurance In Name Only: YIWC Analysis of Catastrophic Plan and Dependent Coverage,
(December 2009).

CONCLUSION

For these reasons, *amicus* respectfully submits that the Court should grant this Motion for Leave to File the Amicus Brief included herewith.

Dated: October 1, 2010

_____/s/
Brett A. Walter
VSB No. 45976
Attorney for *Amicus Curiae* Young Invincibles
Baach Robinson & Lewis PLLC
1201 F Street, NW, Suite 500
Washington D.C. 20004-1225
Telephone: (202) 833-8900
Facsimile: (202) 466-5738
Electronic mail: brett.walter@baachrobinson.com

CERTIFICATE OF SERVICE

I hereby certify that on October 1, 2010, I electronically filed the foregoing by using the CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

Dated: October 1, 2010

_____/s/_____
Brett A. Walter
VSB No. 45976
Attorney for *Amicus Curiae* Young Invincibles
Baach Robinson & Lewis PLLC
1201 F Street, NW, Suite 500
Washington D.C. 20004-1225
Telephone: (202) 833-8900
Facsimile: (202) 466-5738
Electronic mail: brett.walter@baachrobinson.com