

**IN THE
UNITED STATES DISTRICT COURT
FOR
THE EASTERN DISTRICT OF VIRGINIA
(RICHMOND DIVISION)**

**THE COMMONWEALTH OF VIRGINIA Ex Rel)
In his official capacity as Attorney General)
General of Virginia)
900 East Main Street)
Richmond, Virginia 23219)**

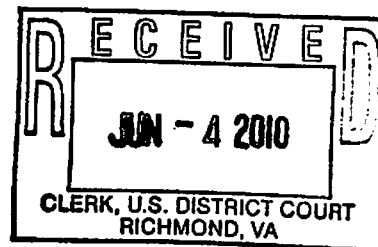
Plaintiff.)

v.)

Civil Action No. 3: 10 CV 188 - HEH

**THE HONORABLE KATHLEEN SEBELIUS,)
SECRETARY, HEALTH & HUMAN SERVICES)
200 Independence Avenue, SW,)
Washington, D. C. 20201)**

Defendant.)



FRIEND OF THE COURT AMICUS CURIAE BRIEF

The participant named below hereby files his *amicus curiae brief* pursuant to the Federal Rules of Civil Procedure, as amended, to move this honorable court to incorporate the arguments set forth below into its order and *final* judgment for the above captioned cause of action in the interest of justice, cost efficiency of the judicial system, uniform consistency inter-

preting the law in the courts and to encourage a *single arena* for gladiatorial legal combat over the Healthcare legislation affecting every citizen in America. Consistent with the premise, the court is moved to consider the following:

THE COURT LACKS JURISDICTION OVER THE SUBJECT MATTER

Mr. Parker respectfully submits the argument that the United States District Court for the Eastern District of Virginia (Richmond Division), nor any other federal court located in the Commonwealth of Virginia, is *without jurisdiction* to entertain the constitutional issues raised in this litigation challenging *flawed national* healthcare, a *single one party partisan* legislation and a one-size fits all boondoggle forced on American citizens against their will or alternatively, to quote D. House Speaker Nancy Pelosi, the **Queen of the United States of Socialism**, after counting the Democrat Party controlled votes on the floor of Congress without any Republications whatsoever voting said: "*We had to pass the healthcare bill so the public can find out what's in it.*"

The bribery and corruption used in the passage of this bill would make the Mafia blush. These bribes included but were not limited to *The Cornhusker Kickback* (Senator Ben Nelson's secured exemption for Nebraska's Medicaid payments valued at \$100 million dollars, a carve out from insurance fees for his state's Blue Cross/ Blue Shield programs, Insurance fees for

Medigap policies sold by Nebraska's Mutual of Omaha and other Nebraska companies were reduced). The Governor of California aired out the dirty laundry: "*The 'Honorable' Senator Nelson got the 'corn', but America got the 'husk'.*" The *Honorable* Chris Dodd's bribe was a \$100 million for a University of Connecticut medical center. The *Honorable* Senator Landrieu, *The Louisiana Purchase*, was promised an additional \$100 million in Medicaid funding. The *Honorable* Senator Bill Nelson (D. Florida) inserted a *grandfather clause* to protect Florida's Medicare Advantage program, a \$2.5 billion bribe. The *Honorable* Senator Max Baucus (D. Montana) received Medicare coverage for any mine workers in Libby, Montana, who were exposed to asbestos. The *Honorable* Democrat senators from *Hawaii* (President Obama's alleged place of birth), South and North Dakota, Massachusetts, Michigan, Connecticut, Vermont and Montana secured bonuses in the Medicare payments for hospitals in their states valued at \$1 billion dollars. The Congress of the United States defines *bribery* as their normal way of doing business at taxpayer expense, but *bribery* in a court of law is defined as "Money or favor given or promised in order to 'influence the judgment or conduct' of a person in a 'position of trust'."

What happened with the Healthcare Bill was that the *Honorable* Harry Reid (D. Nevada from the *Silver State*) changed America into the involuntary *Silver Service* through the use of clandestine and surreptitious subterfuge to support a free-loader nation that's killing the work ethic, individual incentive, cultural values and individualism under a government dominating

with *flawed liberalism* and a *socialist* agenda that's sponsoring and legislating a *free carte blanche* card society of guaranteed unlimited entitlements and the nation's bankruptcy, both in the spirit and the letter of the law.

What's now before this court is a \$787 billion dollar spending bill that was locked in the desk drawer of the *Honorable* Senator Harry Reid, a bill that was not read or released to Democrats, Republications, or independents until the mid-night hour to vote. This bill was over 4,000 pages with numerous amendments with some exceeding 300 pages. No one, including Virginia's Senators Warner and Webb, ever read the bill prior to voting. All Democrats conditioned to party loyalty voted for it without reading or understanding the content or alternatively, how to pay for it. Only in America!

Litigation against the *federal government, the federal agencies, or legislation by the Congress of the United States* belong in the United States District Court for the District of Columbia Circuit *unless* the federal agency is physically located in the State of Virginia (e.g., The Central Intelligence Agency in Langley, Virginia). The jurisdiction of the federal courts over counties and cities in Virginia are set forth with clarity and specificity in the law. Consistent with the premise and the law, It is respectfully suggested that this court be dispositive of the litigation in the following manner:

First, the case should be *remanded* by the court's own initiative to the United States District Court for the District of Columbia without injury or prejudice to any of the parties. This

Order by the court would place the litigation in the proper courts (appellate appeal).

Second, the alternative to number one is for the court to dismiss the case *without prejudice* accompanied by an *order* for the parties to pursue the case by refiling in the United States District Court for the District of Columbia in a *timely* manner determined by this court, which at all times relevant this court should maintain *simultaneous* jurisdiction until that point when litigation must end, appeals or otherwise.

Third, this court should notify the Justice of The Supreme Court of the United States with jurisdiction and responsibility for the Fourth Circuit to issue an order, individually or by the entire court, that the pending litigation in the above captioned case and all pending litigation in the twenty (20) other states on this same issue be *consolidated* and filed in the United States District Court for the District of Columbia as *joint plaintiffs* or a *class action*. This preventive action would preclude the possibility of *conflicting decisions* in the law by the various circuits, reduce the burden of trials and appeals in the entire judicial system and be cost efficient to both the judicial system and the taxpayers.

Of course, this preventive approach would deprive an army of lawyers of their alleged right to the booty, but the paramount right is that of the citizenry of Virginia and America. The parties themselves could resolve this problem by voluntarily becoming *joint plaintiff's* (all 21 states) or alternatively, a *class action* by the plaintiff in this case on behalf of all states.

Fourth, the court in remanding this case to the United States District Court for the District of Columbia should *define* and state with specificity and clarity the constitutional issues presented to the court, with *stipulation* by counsel for both plaintiff and defendant that these will be the issues litigated. These are:

1. Whether the Healthcare Bill signed by President Barack Obama violates the state rights under the *Tenth Amendment of the Constitution of the United States*, both on its face and *as applied*?

The policies and legislation by President Obama and the *single partisan* Democrat Party legislation usurping *states rights* is allegedly in direct violation of the *Tenth Amendment, Const. U. S.*, as an infringement upon *the constitutional rights of states*. The *tenth Amendment* does not give Congress *power* to require states to *adopt* particular laws or require that states *regulate* in a certain manner. *U. S. ex rel. Turner v. Williams*, 24 S. Ct. 719, 194 U. S. 279; *Fry v. U. S.*, 95 S. Ct. 1792, 421 U. S. 542.

The *Federalist Papers* warned against the *control* of the executive, legislative and judicial branches of government by a single political party as a wake-up call to recognize political farmers planting the seeds of a *social* democracy and reaping the political harvest of a nation of blossoming entitlements that in time may lead to a totalitarian government or alternatively, *anarchy* if rescinded (e.g., Greece).

2. Whether *disparate "class taxation"* to subsidize middle-class entitlements and the thirty million uninsured and illegal aliens to health benefits, achieved through an individual *compulsory* mandate with sever legal consequences for individuals who fail to conform and *conform in silence*, subsidies and oppressive insurance regulations and nonelected appointed political

Czars in control of *graveyard determinism* is in direct violation of the *First, Fifth, Thirteenth and Fourteenth Amendments of the Constitution of the United States, the Civil Rights Act legislation and The Constitution of the Commonwealth of Virginia?*

THE COMONWEALTH OF VIRGINIA HAS STANDING

This court in this unique litigation may grant *standing* where matters of great *public interest* and *societal impact* are concerned. *Jenkins v. State*, 585 P. 2d 442, 443 [3]) (S. Ct. Utah, 1978). This is not a case involving *interstate commerce* as set forth in the governments *Motion to Dismiss*. This is a case for the courts to decide the constitutional right of every American to choice or alternatively, not to choose. The final decision by the courts will ultimately determine whether the future of our nation and the traditional cultural values will survive in a democratic society or alternatively, whether our children and grandchildren will grow up in an autocratic society analogous to *Brave New World* or *1984*, or worse.

President Barack *Hussein* Obama and his *extreme liberal* Democrat Party now *control* the executive and legislative branches of our government with the power of the bully-pit, which may be well on their way to controlling the judicial system. America's last hope is with the judicial system and trust in courts such as the one deciding the path of justice for this case. A victory for government in this litigation not only means unopposed *control* over America's purse strings, but *life and death control* over *individualism*, the thinking process, the conscience of every man, woman and child and a government control over who lives and who dies or alternatively, "*S/he who must*

die!"

President Obama and the Democrat Party, with their liberal policies and a political appetite for entitlements have their hands so deep in the pockets of Uncle Sam that House Speaker Nancy Pelosi could reasonably make the inference that Uncle Sam's only source for sex is with *pickpockets*.

America, the Constitution of the United States and the courts may have been born at night, but hopefully, not last night.

WHEREFORE, the amicus curiae party respectfully moves this honorable court to *grant* his motion, accept his brief and to subscribe to the arguments contained herein.

POINTS: As stated above.

AUTHORITIES: As stated above.

Respectfully submitted,

/s/ 
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**THE COMMONWEALTH OF VIRGINIA Ex Rel)
Kenneth T. Cuccinelli II, in his official)
Capacity as Attorney General for Virginia)
900 East Main Street)
Richmond, Virginia 23219)
Plaintiff.)**

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200 Independence Avenue, SW)
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Defendant.)**

CERTIFICATE OF SERVICE

I, **RAY ELBERT PARKER**, hereby certify *under oath* that a true copy of the motion, certificate of service and the *amicus curiae* brief has this **3rd day of June, 2010**, been served upon the parties named below by certified mail with return receipt requested, postage prepaid, to **The Honorable Kenneth T. Cuccinelli, Attorney General for the Commonwealth of Virginia, 900 East Main Street, Richmond, Virginia 23219**; and to his team of lawyers as follows:

Earle Duncan Getchell, Jr., Esq., LEAD ATTORNEY TO BE NOTICED; Charles E. James, Jr., Esq.; Stephen R. McCullough, Esq.; and Wesley Glenn Russell, Jr. Esq., ASSISTANT ATTORNEY GENERALS TO BE NOTICED; and The Honorable Robert F. McDonnell, Governor of the Commonwealth of Virginia *, Office of the Governor, Patrick Henry Building, 3rd Floor, 1111 East Broad Street, Richmond, Virginia 23219; **The Honorable Jim H. Webb, (D. Senator Virginia)***, 248 Russell Senate Office Building, Washington, D. C. 20610; **The Honorable Mark R. Warner, (D. Senator Virginia) ***, 459- A Russell Senate Office Building, Washington, D. C. 20510; and **The Honorable Eric Holder, Attorney General for the United States of America, United States Department of Justice, 950 Pennsylvania Avenue, NW, Suite 4100, Washington, D. C. 20530; and John H. Hanbrick, Esq., United States Attorney, 600 East Main Street, Suite 1800, Richmond, Virginia 23219; and Ms. Erika Myers, Esq., Assistant United States Attorney, Department of Justice Federal Programs, 20 Massachusetts Avenue, NW, Room 7332, Washington, D. C. 20001, LEAD ATTORNEY FOR DEFENDANT TO BE NOTICED.**

Asterisk * indicates courtesy copies mailed.

/s/ 
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