UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

John J. Dierlam §
Plaintiff §
§
versus §
Joseph R. Biden, PRESIDENT OF THE UNITED §
STATES, in his official capacity as President of the §
United States; UNITED STATES DEPARTMENT OF §
HEALTH AND HUMAN SERVICES; Xavier Becerra, § Case No. 4:16-cv-00307
SECRETARY, U.S. DEPARTMENT OF HEALTH AND §
HUMAN SERVICES, in his official capacity as §
Secretary of the U.S, Department Health and §
Human Services; UNITED STATES DEPARTMENT OF §
TREASURY; Janet Yellen, SECRETARY, U.S. §
DEPARTMENT OF TREASURY, in her official capacity §
as the Secretary of the U.S. Department the §
Treasury; UNITED STATES DEPARTMENT OF LABOR; §
Martin Walsh, SECRETARY, DEPARTMENT §
OF LABOR, in his official capacity as the Secretary §
of the U.S. Department of Labor §
§
Defendants §

Second Amended Complaint

Jurisdiction

1. The plaintiff is a citizen of and resides in Harris County, Texas, and the USA. This legal action is the result of activities of the defendants in their official capacities for the Government of the United States. As this case principally involves the Laws, especially the Affordable Care Act, and Constitution of the United States, this court is the proper venue based upon 28 U.S.C. § 1331, § 1340, § 1343, § 1346, § 1367, and § 1391(e)(1)(C). This court has the authority to provide the relief sought based upon 5 U.S.C. § 706, 28 U.S.C. § 1361, §

2201, § 2202, § 2465, § 2674, 42 U.S.C. § 2000bb-1.

Background

2. The Plaintiff, John J. Dierlam, was baptized into the Catholic faith shortly after birth. My parents were both practicing Catholics. I have regularly attended services and practiced the Catholic faith as best I could throughout my life. I am not a part of the clergy or religious, but simply a member of the laity. According to the healthcare.gov website, I do not qualify for any exemption in the Affordable Care Act. (I understand that the term "ACA" generally refers to the combination of two laws the Patient Protection and Affordable Care Act (PPACA), Public Law 111-148, and the Health Care and Education Reconciliation Act (HCERA), Public Law 111–152. I will use the acronym ACA to refer to any relevant section of either law.)

3. In 2012, I was employed at ZXP Technologies, which is not a religiously affiliated employer. I was enrolled in the company's medical, dental, and vision insurance plans. That same year HHS et. al. promulgated regulations to implement the ACA. HHS via 45 CFR § 147.130 (a)(1)(iv) adopted Health Resources and Services Administration (HRSA) Guidelines which can be found at http://www.hrsa.gov/womensguidelines/womenspreventiveserviceguidelines2014.html. HHS formed a committee at the Institutes of Medicine, which created the recommendations which formed the basis for the Guidelines. The report of the committee can be found at http://iom.nationalacademies.org/Reports/2011/Clinical-Preventive-Services-for-

Women-Closing-the-Gaps.aspx. I will refer to the rules set forth by the departments of HHS, Treasury, and Labor as the HHS mandate or HHS et. al. mandate. After hearing about these changes and mandates in the news media, I inquired about the changes during the company's open enrollment period occurring in the fall of 2012. I was informed by the company's insurance representative due to the new regulations dating from August of that year, contraceptive coverage had been expanded and some abortion services probably would be covered within the next year. I decided to follow the teachings of my faith, drop medical coverage, and thereby not support these services through payment of premiums and fees. I continued the vision and dental coverage as there were no moral implications to do so.

4. In the fall of 2013, I utilized the one covered eye doctor visit per year for a check up. The doctor informed me I had glaucoma in one eye. He also believed I could have a thyroid condition and told me I should see my regular doctor to check this possibility. He prescribed eye drops for the Glaucoma. The drug he prescribed had some rather serious possible side effects as do many drugs. I filled the prescription, but never took the drug. Based on the evidence he presented to me, I seriously doubted his opinion. After some research into both conditions, I scheduled an appointment at a different eye clinic for a second opinion. This clinic found no evidence of Glaucoma. I saw the same doctor which I previously utilized when I had medical insurance through ZXP's medical plan. He had some blood tests run, but he refused to run the blood test which my research indicated would be the most definitive. He told me I had to see a

specialist to run that test and interpret the results. I doubted this conclusion as well. I eventually found a lab which would run the test with out a doctor's order. (After discovering this resource, I have used it a few additional times and saved the cost of a doctor's office visit.) The test results did not indicate a thyroid problem. I decided neither condition existed nor required further investigation. I dropped the vision insurance at the company's next open enrollment as I believed it to be worthless. Even though the cost of the vision insurance was minor, it had proved to be costly, in time, trouble, and my out of pocket expense. This episode only underscored a lesson I learned long ago, doctors can be as much a threat to one's health as an aid. Everyone will look out for their own interests first, despite what they might say or what is said about them. The less control the individual has in determining the proper course of action for their own life, the increasing probability the end result will be disastrous. Health Insurance has the effect of removing control from the individual. If one considers the concept of insurance in general not only health insurance, it is generally a losing proposition for the insured. The insurer must meet his administrative costs and make a profit, all of which must come from the premiums and fees incurred by the purchasers. Of course, similar to a lottery a few purchasers may reap a great benefit, but the bulk of the policy holders can not or the insurer will not be in business for long. The decision to buy insurance is dependent on the risk of loss versus benefit and assurance of the insurance policy, but self insurance where possible is generally the best strategy. An insurance model seems to be a poor choice for a Health Care

system which is ostensibly intended to benefit the poor and less fortunate.

5. Soon after dropping medical insurance through ZXP, I made an attempt to find alternative individual medical insurance. The three or so companies I contacted, indicated they would follow the HHS mandate and provide the mandated contraceptive and abortion coverage. I found one organization online, which indicated it was a Christian medical bill sharing operation and fulfilled the requirements of the ACA. However, it required the affirmation of a statement the wording of which was clearly Protestant. Although I was unsure as to the details of the bill sharing, I am also not comfortable with other individuals paying my personal medical bills. I contacted a State of Texas agency, which one of the insurance representatives indicated could help me find an acceptable health insurance policy. The person I spoke with at the State agency was somewhat surprised by my question, and indicated they could not help in any way. I ceased all efforts at this point and concluded I was not going to find health insurance, which did not comply with the HHS mandate.
6. In approximately May of 2013, I happened to see a Television program which among other related topics talked about a dietary regimen referred to as Calorie Restriction. Research is ongoing (see for example, https://www.nia.nih.gov/newsroom/2015/09/nih-study-finds-calorie-restriction-lowers-some-risk-factors-age-related-diseases) and not extensive, but if implemented properly CR can possibly extend life as well as provide relative immunity to Cancer and other age correlated disease. In the spring of 2013, after more reading on this topic, I decided to begin this diet as well as a few

other techniques to obtain the possible benefits since in part I can not obtain medical insurance without moral peril. I am still trying to optimize my diet and life style, but if these techniques have the hoped for effect my risk factors for developing serious disease should be much reduced and my possible need for medical insurance or medical services will also be much diminished.

7. I terminated my employment with ZXP Technologies in May of 2015.

8. The Catholic Church teaches that life begins at conception. The Church has long held that the practice of abortion, contraception, and sterilization are reprehensible and sinful. Supporting these activities even indirectly such as by knowingly voting for a candidate for public office who supports or advocates abortion can be grounds for excommunication from the Church. "Any Catholic who substantially assists another in the deliberate sin of abortion is also guilty of serious sin and incurs a latae sententiae excommunication." (http://www.catechism.cc/articles/abortion-excommunication.htm) I understand this pronouncement is derived from the Code of Canon Law §1398 and §1329. The sacrament of penance is one of seven sacraments instituted by Christ and reflected in the New Testament, "Whose sins you shall forgive, they are forgiven them; and whose sins you shall retain, they are retained." (John 20:23) A person who is excommunicated is not in union with the Church and so is separated from the sacraments which includes the Eucharist (Holy Communion). Canon law and the precepts of the Church require all Catholics to receive communion and penance at least once a year. The Catholic church also teaches that salvation is achieved not by faith alone, but through faith and good works

(James 2:14-24), which generally requires a life long process. We are called to practice what we believe which includes frequenting the sacraments and defending the teachings of Christ. Excommunication in effect means the excommunicated person is held bound in their sin. They can not receive the sacraments including communion and penance. A sin serious enough to warrant excommunication is generally considered extremely mortal to the soul. As a consequence, although God is the final judge, in the eyes of the Church the excommunicated person is also hell bound unless the person takes steps to amend the ways of his life and remove the excommunication. Therefore, supporting abortion in any way is a very serious matter in the Catholic Church.

9. All the following claims will utilize the statements in paragraphs 2 through 8 to establish a basis for the injury. The arguments presented supporting the claim should not be taken as the only arguments and information possible. I hope to present additional arguments and discover additional information in support of each Claim as necessary.

CLAIM I

Defendants Violation of the ACA

10. Section 1502(c) of the PPACA provides a Notification of Non-Enrollment. To the best of my knowledge, the IRS has never provided me this notification in violation of the ACA. However, the initial injury occurred in the Fall of 2012 when I was compelled by my conscience to discontinue my employers health insurance because of the actions of the defendants. I decided that the inability to purchase a product which I desired was a rather tenuous ground for standing

in Federal Court. I decided to wait for better standing in some other form. I also hoped political or judicial process would render the laws and rules involved harmless. My search for insurance coverage which would be in compliance with my religious objections did not yield any positive results. Based upon these results and press accounts, I concluded health coverage which would meet my religious requirements was no longer in existence. The healthcare.gov website was not in existence at that time. I have never checked it for health coverage for I was convinced no policy could be purchased compatible with my religious beliefs. I did check the healthcare.gov website when directed to do so by IRS publication while completing my tax return but only to look for exemption information. I found I was not qualified for any exemption. I would need to suffer the penalty of the individual mandate. After the penalty, I found I needed to file a claim form and wait for a response by the IRS for a minimum of six months as required by 28 U.S.C. §2675(a), which places my first possible date of standing in Federal Court in October of 2015. The IRS never responded to my claim. After my research I discovered §1502(c) of the PPACA codified 42 USC 18092, which states:

> Not later than June 30 of each year, the Secretary of the Treasury, acting through the Internal Revenue Service and in consultation with the Secretary of Health and Human Services, shall send a notification to each individual who files an individual income tax return and who is not enrolled in minimum essential coverage (as defined in section 5000A of title 26). Such notification shall contain information on the services available through the Exchange operating in the State in which such individual resides.

11. The clear purpose of this statute is to provide warning to taxpayers. (See

Defendant's Motion to Dismiss p.12.) I do not see any requirement as to which year this notice is to begin nor do I see any restriction that the Defendants use only tax return information to determine the group of taxpayers who may be subject to the penalty as contended by the Defendants. In fact, the Statute specifically instructs the Secretaries of Treasury and HHS to work together to identify the appropriate taxpayers, which implies data other than tax returns SHOULD be employed. A notice start date of 2015 would be over one year past the actual injury for most people, and the notice would not serve the intended purpose. I do not dismiss the possibility this provision of the ACA reflects the incompetence and negligence of Congress in achieving their stated purpose. (See Claim VII) The information to be contained on the notice is not specified. A URL alone would not be helpful especially for people without internet access. If it is the Defendant's contention that health insurance coverage which is compatible with Catholic theology exists and meets all other government requirements to avoid the penalty then this information could have been included or at least contact information where such can be found. Texas did not set up an exchange, but consider the erroneous information I received regarding the State agency, which I was told could help in this matter. See ¶ 5. If the Defendants would have provided similar contact information, and a compliant policy could be located, then much of the basis for this civil action would not exist. I do not contest that §1502(c) does not grant a private right of action, however the underlying violations do grant such action. If we assume as the Defendant's claim the notice was not due until June of 2015, harm was still

caused. This notice could be used as evidence of imminent harm and would have given me standing in Federal Court at an earlier date than October of 2015.

CLAIM II

Violation of The Religious Freedom Restoration Act

12. The Religious Freedom Restoration Act, U.S.C. 42 § 2000bb-1(b) indicates the government in order to burden the exercise of religion of any individual must demonstrate (1) the furtherance of a compelling government interest and (2) the least restrictive means of furthering that interest has been employed. Section 1302 of the PPACA gives the secretary of HHS the discretion to define what "essential coverage" is required in a health care plan. However, in Section 1303 of the same act, Congress specifically instructs that Federal funds not be used for abortion services and that no plan be forced to include abortion services. HHS et. al. chose to adopt the HRSA guidelines as essential coverage for women in all plans to be provided without cost sharing, as mentioned in paragraph 3 above. The HRSA guidelines adopt, "All Food and Drug Administration approved contraceptive methods, sterilization procedures, and patient education and counseling for all women with reproductive capacity." The Food and Drug administration has approved "Ella", which upon knowledge and belief can be used as an abortifacient. "Plan B" and copper IUDs also approved by the FDA may have the same effect. The FDA has also approved numerous other unnatural birth control drugs and devices. The ACA does not specifically mention contraception, therefore this coverage is at the discretion

of HHS, which has forced all plans to cover these services. The defendants violations (see paragraphs 16-18, which I incorporate here by reference) invalidate any defense of a compelling government interest and the least restrictive means of implementing that interest.

13. According to the court's decision in East Texas Baptist University v. Burwell, 793 F.3d 449 (5th Cir. 2015)., I must demonstrate a Substantial Burden on my exercise of religion. Paragraph 8 above should demonstrate the seriousness which the Catholic Church places on abortion. I fully agree with the Church's position on this issue. The HHS mandate is NOT compatible with my belief or Church teaching. Therefore, any penalty placed upon me, or action I must take to mitigate my decision is a burden. These burdens therefore include:

A. discontinuing my medical insurance,

B. radically altering my diet to mitigate the first burden by reducing the probability of disease and the need for medical insurance.

C. In April of 2015, I was compelled to pay the individual mandate penalty as administered by the IRS, which will be increased considerably over the next couple of years.

D. In order to mitigate the third burden, I have initiated this action at a considerable cost to my time and assets. I am pursuing this action on a pro se basis because I can not comfortably afford the legal costs and because, as stated previously, I believe no one can represent my interests better than myself.

E. The ACA and the HHS mandate, as demonstrated by paragraph 5 above,

has so skewed and damaged the insurance market for the foreseeable future such that if I try to find medical insurance it will be difficult if at all possible to find a policy which is compatible with my beliefs, meets my needs and requirements, and is affordable.

F. I am currently single and without children. Any decision to marry and have children will be difficult if possible due to the additional penalties imposed by the ACA. Such a decision may also expose me to additional legal liability. For example, failure to purchase an HHS mandated health insurance policy for a dependent child may in the future be considered child abuse or neglect, which could then result in criminal prosecution.

14. A medical insurer is compelled to follow the HHS mandate to provide contraceptive coverage. I am required to purchase medical insurance from the medical insurer, which provides contraceptive coverage. I am a male and it was very much intended by the HHS mandate that the burden of the contraceptive coverage fall more heavily on male participants (see paragraphs 16-18). Therefore, in violation of my beliefs I am being coerced to support abortion, contraception, and sterilization. I will NOT purchase the HHS mandated insurance and violate my beliefs and the beliefs of my ancestors. Any penalty which could be imposed including death, pales in comparison to eternal damnation. The HHS mandate and the ACA have had, and I anticipate will have life altering impacts aside from the monetary burden which I believe is and will be substantial by itself. I submit I have demonstrated a "substantial" burden and the government has demonstrated neither a compelling interest nor the

least restrictive means to further that interest.

CLAIM III

Violation of the "Establishment" Clause of the US Constitution

15. This claim builds from the information established in all previous paragraphs which I incorporate into this claim. Many Christian sects believe that abortion is murder. These Christian sects make up a large percentage of the current population of the USA. Catholics in addition believe that sterilization and contraception are wrong. These positions have been well publicized, especially since Roe versus Wade. Congress did not incorporate any requirement for these services in the ACA. It did place restrictions on the incorporation of abortion services in approved plans. (See § 1301 of the PPACA) Yet HHS et. al. chose to force all medical insurance plans to accept some abortion services, as well as contraception and sterilization services in all approved medical plans. It has also been well publicized by the Obama administration that Obama wanted to "transform America." It is not a surprise that he would direct his administration or appoint people of like mind to make substantial changes. It is very difficult to believe that HHS et. al. were unaware of the burdens on some religious groups and individuals which would be imposed by their mandate. It is also difficult to believe these actions are not part of a plan to supplant long held beliefs of certain religions, with whom the regulating entities appear hostile, with another set of moral beliefs which are in line with the administration and it allies and force these beliefs on the whole of society thus "transforming" it.

16. HHS et. al. adopted all the FDA approved contraceptive methods for women, which are to be provided without copay or additional cost. One of the FDA approved contraceptive methods is vasectomy, which is a surgical procedure intended to leave the male sterile. Catholic teaching forbids this practice no less than contraception and sterilization for females. My point here is to indicate an inconsistency and a violation of the equal protection clause of the Constitution on the part of the defendants. HHS et. al. did not approve vasectomies be provided without copay or additional cost. Obviously, males will not become pregnant. This procedure is designed to prevent a female from conceiving.

17. The situation described in the previous paragraph fails the "reasonableness" test to justify a violation of the equal protection clause of the Constitution. The existing HHS mandate is designed to burden males and benefit females. The IOM report provides some statistical information indicating females are more likely to need preventative services, and out of pocket expenses inhibit these women from obtaining these services. The report does not indicate how men are responsible for these problems. It is God and Nature which are responsible for the design of the female reproductive system, not the class of all Males. It is unreasonable males be made to shoulder a greater burden of cost. Furthermore, if we assume that somehow all or even a subset of males are somehow responsible for placing a greater medical burden on females, then the "reasonableness" test still fails since the government mandated contraceptive benefit accrues to the female in the case of male sterilization. This obvious

discrimination between the sexes demonstrates HHS et. al. has an agenda or reasons other than that which they state publicly for the policy they advocate. Democrats claim women as a special constituency, not so much men. Therefore, it is not unexpected they will direct benefits to women, and not so much to men. This obvious discrimination represents but another skirmish in the battle for superior rights and is therefore a violation of the equal protection clause of the US Constitution.

18. The HHS sponsored committee created at the Institutes of Medicine whose recommendations HHS et. al. based the justification for the use of all FDA approved methods for female contraception appears to have several problems, which could effect any recommendation or opinion. First, a conflict of interest appears to be in evidence as 10 out of the 16 members have Medical Doctorates. Several recommendations could have the effect to increase the eventual payments to themselves or their colleagues. The committee had a very limited time span of 6 months to complete their work. They were not allowed to consider any effects of community based prevention activities nor the cost or cost effectiveness of any preventative measure. The committee report recommends evidence review and the making of coverage decisions be the concern of separate bodies. However, these two functions were combined in this single committee. The evidence referred to here were actually studies, information, and hypotheses gathered to guide physicians in their practice, which may be related to a minimum level of insurance coverage, but it was not gathered or intended for that purpose. Therefore improper recommendations

may result. The experience and judgment of the physicians seemed to play a large role in the recommendations, which tends to divorce the recommendations from a scientific basis as claimed. It appears the only committee member with insurance industry related experience and a background in economics wrote a dissent. In his dissent, he gave a very brief outline of a method to place insurance related decision making on a firmer scientific foundation. He also states, "The view of this dissent is that the committee process for evaluation of the evidence lacked transparency and was largely subject to the preferences of the committee's composition. Troublingly, the process tended to result in a mix of objective and subjective determinations filtered through a lens of advocacy. An abiding principle in the evaluation of the evidence and the recommendations put forth as a consequence should be transparency and strict objectivity, but the committee failed to demonstrate these principles in the Report." The committee majority's short response indicated the rest of the committee did not share his dissent. The response failed to address any of his concerns or issues. It appears the committee only heard from pro-abortion, pro-contraception groups which further places their objectivity in doubt. The committee does not appear to be properly populated, provisioned, or charged for the tasks to which HHS later utilized its recommendations to justify the imposition of the HHS mandate. I do not believe all of the problems listed here can be dismissed as an accident or oversight on the part of HHS.

19. Upon information and belief, HHS et. al. engaged in a pattern of behaviors

during the regulation formulation process to exclude and silence select religions and beliefs in an effort to impose their own beliefs. They deviated from standard procedures or used their authority to ignore and set aside the concerns of other parties as well as violate the equal protection clause of the US Constitution. I submit these willful behaviors and violations demonstrate HHS et. al. intention and mindset. HHS et. al. did become entangled with and discriminate among religions without any compelling government interest, which establishes a basis for their violation of the establishment clause of the first amendment of the Constitution.

CLAIM IV

Violation of the "Free Exercise" Clause of the US Constitution

20. This claim builds from the information established in all previous paragraphs which I incorporate into this claim. I have sincerely held religious beliefs which are identified in a previous claim. The HHS mandate is not religiously neutral. The HHS mandate has no compelling government interest of general applicability nor are the regulations narrowly tailored. The HHS mandate appears at a minimum to have the effect to silence and force acceptance upon people with objections to its moral implications. I submit the HHS mandate is interfering with my free exercise of religion as provided in the first amendment of the Constitution.

CLAIM V

Defendants Violation of Constitutional Guarantees in the Exemption/Certification Process

21. This claim builds from the information established in all previous paragraphs which I incorporate into this claim. The current religious exemption process (See https://www.healthcare.gov/exemptions-tool/#/results/2015/details/religion) from the individual mandate, which the defendants set up and administrate, appears purposely designed to be difficult and lengthy. It places a substantial and unnecessary burden, which is not narrowly tailored or the least restrictive, to assert these rights. It discriminates among religions. It currently only permits individuals of religions with an objection to receiving insurance benefits to apply, which acts as an absolute bar and discrimination against other religions. It does not seem to matter if these individuals of the permitted religions have an objection to paying a penalty instead of the insurance, which is the only option offered to individuals with other religious objections to the HHS mandated insurance. Similarly, the only health care sharing ministry of which I am aware appears to be of the Protestant faith and Section 1501(b) of the ACA prevents any ministries formed after 1999, which is about ten years prior to the passage of the ACA, from receiving the exemption. This certification/exemption process is a violation of the free exercise and establishment clauses of the US constitution. Of what value is such a right, if the government is in a position to delay and deny that right. I submit the government has no compelling interest to justify this exemption/certification process, and it is therefore a separate violation of the

RFRA, due process, and the first amendment to the US Constitution.

22. Many possible exemption procedures could be implemented to simplify, streamline, and create a more fair system without burdening religion. I suggest a simple check box for religious objection, and a blank to fill in for the faith or specific belief. These fields could be added to the income tax forms. The word Catholic should be sufficient to indicate the objection, as Catholics have well established beliefs against participating or aiding in abortion, contraception, or sterilization. I can think of many other systems to achieve the same purpose which would be less burdensome than the current system.

CLAIM VI

Violation of Constitutional Guarantees stemming from the Individual Mandate

23. I incorporate the information in all previous paragraphs into this claim. In section 1501(a) of the PPACA, Congress appears to list much of their motivation for this Law and their justification of the penalties imposed. Many of these findings are fallacious and/or misleading as pointed out in the Supreme Court decision, Nat. Fedn. of Indep. Business v. Sebelius, 132 S. Ct. 2566, 567 U.S. 1, 183 L. Ed. 2d 450 (2012), especially in the opinion of the dissenters. The expansion of the power of Congress in the ACA would place in effect no limit on its ability to control the population of the US, which is why the court disallowed the claim set forth in section 1501. The Supreme Court ruled the power to impose the penalties and regulations does NOT stem from the power of Congress to regulate interstate commerce. The court narrowly allowed the

penalty referred to as the "shared responsibility payment" or Individual Mandate based on the Congressional power to tax.

24. Heretofore, insurance was sold by one party willing to take the monetary risk of some possible future adverse event of another party in exchange for a payment of some type. This payment is often calculated based on probability so as to provide a net profit to the first party. The ACA in effect eliminates or invalidates this type of transaction for health care while maintaining the name insurance for this contract. The ACA forces coverage of preexisting conditions, which by definition is not a future event. It has 100% probability as the event has occurred. This provision along with other provisions make the insurer in this transaction essentially a conduit for government mandated benefits. In order to mitigate the cost to the medical insurer, this law forces additional participants to buy contracts for which the cost and probability of collecting is not to the advantage of the purchaser. The ACA refers to the exchange of these new government mandated contracts as a marketplace, however market forces are not at work in this so called marketplace. This system will be difficult to maintain in proper balance as indicated by the dissenter's opinion in the Supreme Court ruling previously mentioned.

25. I submit, the ACA essentially destroys a legitimate industry and creates a new one in its place. (A) It forces parties to inter a contract not of their choosing, which is a violation of the right to privacy and association to form contracts of the choosing of the parties involved.

26. (B) Art. I, §9, cl. 4 of the US Constitution states, "No capitation, or other

direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken," which is a simple restatement of the same idea in Art. I §2, cl. 3. In their opinions in NFIB et. al. v. Sebelius et. al. the justices seem to agree there has been much controversy as to what is a "direct Tax." The Federalist is a compilation of articles published in newspapers advocating the ratification of the Constitution. Alexander Hamilton in Federalist No. 35 categorizes taxes into external and internal. He then breaks internal taxes into two categories direct and indirect. He does not explicitly define these categories. He seems confident his audience understands the meaning of these words. He does give a couple of examples. A property tax is a direct tax. A sales tax is an indirect tax. By induction and the common meaning of the words, I submit a direct tax is any exaction from an individual in which the individual can avoid only by not possessing the object taxed, such as income or property. An indirect tax is a tax on some activity, such as the purchase of a tax object, which can be avoided by the end consumer by not initiating the action on the tax object. This differentiation is also important to the founders as the latter category allows the citizen to initiate the action and pay the tax or not make the transaction and avoid the tax, such is the case for a sales tax. Anonymity is possible for the end consumer and taxpayer as no information is required other than the type of transaction, the amount of the transaction, and the tax rate for that transaction in effect. Direct taxes on the other hand, as the name implies touch the citizen directly and are difficult to avoid. They are more easily tailored to a particular individual or a particular group. Anonymity is generally not

possible because of the tailoring often employed in this category of tax. For example, a property tax must some how characterize a property, the value, the size, the utility, etc., and who owns it in order to assess the tax. That individual is then assessed the tax. The Individual Mandate does not fit either category. One can not classify it as an indirect tax because it is not initiated by any action, but rather by a lack of any action. The tax object is unclear, it is not the medical insurance policy but the lack thereof. One could consider the tax object as the existence of the individual. Every individual in existence should then be responsible for the tax. In this case, it would be a direct tax. If it were a direct tax, it is not in proportion to the population as required in article 1 of the US Constitution. The 16th amendment to the US Constitution provides an exception to clause 4 cited previously. It allows an income tax to be imposed on the people without regard to any proportion from a census. However, the Individual Mandate is not a tax on income per the 16th amendment to the US Constitution. It is imposed only on that class of individuals without a medical insurance policy which meets the provisions of "minimum essential coverage" per the HHS Mandate. The amount of the penalty may be limited or scaled by the individual's income, but it is imposed because the individual did not initiate an action on a non-tax object. The tax object in this case is definitely not income, which is the object of the income tax. Therefore, I submit the Individual Mandate is not a constitutionally permitted tax, and is therefore outside of Congress' authority to impose. Congress could have increased income tax rates on all individuals and provided a credit for those who purchased a medical

health policy meeting the requirements of "minimum essential coverage," which may avoid in part this constitutional problem, but they did not.

27. (C) If we must characterize the Individual Mandate as a tax as did the Supreme Court, we should take one step back and consider the requirements and intentions of the ACA. The intentions of Congress in the ACA were to mandate every individual to either purchase a health insurance policy meeting the "minimum essential coverage" requirement, some or all the proceeds of which will be used to fund government mandated benefits or, be subject to a tax of similar magnitude. No real choice exists here as to economic impact on the individual, either an exaction in the form of a forced purchase of a product which serves the will and purpose of government or a tax of similar proportions. The Individual Mandate is tailored to the individual by setting a floor, a ceiling, etc. depending on several factors. Some individuals will receive subsidies or exemptions, however these are not material to this analysis. Furthermore, Congress clearly intended the requirements of this exaction of health insurance or the Individual Mandate to fall upon the head of every man, woman, and child in the United States. Therefore, I submit this exaction is a Capitation, and as such the Constitution explicitly requires this exaction be apportioned to the population. I see no provision for any apportionment in the ACA. Therefore, the ACA is not compliant with the Constitution.

28. (D) If the tax is to be viewed as a penalty, then I submit the penalty thus imposed is a violation of the 5th amendment due process rights of the accused in this new offense.

CLAIM VII

Violation of Constitutional Guarantees stemming from the ACA

29. I again incorporate the facts and information in all previous paragraphs into this claim. Section 1201 of the PPACA allows discrimination "...only by individual or family coverage, rating area, age, or tobacco use." Many significant factors which will affect the cost of health care and the burden an individual will place on the health care system are not listed. These include drug use, illicit sex, overeating, as well as other factors. Therefore, a heavier burden will be placed on those individuals who refrain from these activities and choose a healthier life style. This perverse, anti-evolutionary selection may harm society and in time deteriorate overall health in the population as those who would maintain a healthier lifestyle will have less incentive to do so.

30. As described in paragraph 6 above, in part since I could not obtain health insurance, I have taken steps to improve my health and mitigate and reduce the possibility of disease. To my knowledge, my family background lacks any genetic factors which predispose me to serious life threatening disease. Yet, I face the penalties in the ACA without any consideration of these and other mitigating factors. I submit I am being unfairly treated in this regard, and I submit this is further evidence even though the ACA repeatedly uses the term insurance this contract is not one which is principally designed to insure against an adverse medical event as these probabilities are not taken into account in the determination of premiums.

31. I submit punishing bad and unhealthy behavior may be a more effective and fair approach than the one taken by the Congress which passed the ACA. However, it would place the Democrats, who passed the ACA without any Republican endorsement, at odds with some of their constituencies. (I will use the terms Congress and Democrats interchangeably.) Depending on implementation, this approach may face a similar constitutional challenge.

32. Given the self interest of health care providers, as indicated by my personal example in paragraph 4 above, as well as the self interest of government regulators and the regulated entities, since the ACA takes more decision making power out of the hands of the individual, it places the life and health of every individual at greater risk. The individual becomes a pawn in the hands of these increasingly more powerful entities. Each individual is their own best advocate; all others will see to their own interests first. If the Democrats were serious about enhancing the health and well being of patients, they would increase the autonomy, authority, and options of the patient, expand health education, advance tort reform, as well as many other reforms which could reduce the cost while improving health care, rather than mandating benefits to some and finding additional pockets to pick as they have in the ACA.

33. The ACA provides no reasonable method to self-insure and in effect makes self insurance by individuals illegal. As indicated in § 1501 of the PPACA, the authors intended a prohibition of all self insurance. One intention of the ACA was to expand health care coverage. The idea of the authors was to force all "applicable" individuals to purchase health insurance policies from the insurers

to offset the costs mandated by Congress upon them. If a sufficient number of these individuals opt to pay the individual mandate, the insurers will not make up the losses imposed on them by the benefits mandated by Congress in the ACA. The authors intended to penalize and prevent any attempt at self insurance, otherwise the insurers will not meet their financial obligations from the mandates in the ACA forcing them to greatly increase premiums or go bankrupt. Increasing rates will force or induce more people to opt for the penalty or place the insurance out of the range of affordability. In turn, causing insurers to again increase premiums. The result has been termed a "death spiral" in which the whole health care system collapses. The mandates and restrictions placed on both parties of this forced transaction were intended to make it very difficult for an individual to mitigate the effects of the previous paragraphs and to limit the options of both parties. Health insurance policies which do not follow the mandates of the ACA and HHS et. al. will be increasingly difficult to obtain. Hamilton indicated in Federalist No. 35 that direct taxes can be "oppressive and partial." Hamilton also indicates that the requirement for direct taxes to be applied in proportion to the population was intended to prevent this type of abuse. (See the arguments and information in paragraphs 39 to 41 of Claim VIII, which I incorporate here by reference) The provisions of the ACA establish perverse conditions which make the insurers more responsive to the government and certain Democrat constituencies rather than the people paying the majority of the costs.

34. The ACA is not neutral. Although the ACA purports, especially in section

1501(a)(2), to benefit the entire population of the US, its real design and impact benefits certain Democrat constituencies and punishes primarily non-Democrat constituencies. Upon knowledge and belief, I therefore submit the effect and intention of the Democrat sponsors of the ACA was "oppression and partiality," which is a violation of multiple constitutional rights, but especially equal protection of the law.

35. The name chosen for the penalty, "shared responsibility payment," is fallacious and insulting propaganda. This penalty as established in the previous paragraphs, is not shared, responsible, or even a payment. I do not see anything in the ACA which absolves an uninsured individual of any indebtedness for medical bills incurred. It imposes on these individuals, who continue to be liable for their own medical expenses, a penalty not purportedly for income generation but rather as a punitive and confiscatory measure on top of any medical expenses they may owe. Payment implies some service was performed for which a monetary sum is due. This penalty in part emulates the cost of medical insurance for an individual but provides no medical health care coverage or benefits. Naming this penalty a "payment" is fraudulent. However, the ACA as a whole is a fraud on the American public. Recent press accounts, for example see http://www.bizjournals.com/triangle/news/2015/11/23/losses-from-aca-products-unitedhealthcare.html, indicate that premiums will increase substantially and insurers are facing large unsustainable losses due to the ACA. The proponents of the ACA indicated the Law would save all Americans money. However, the costs associated with the ACA because of expanded Medicare,

inefficiency, waste, and other problems are increasing the costs, see the article at http://www.forbes.com/sites/sallypipes/2015/12/14/obamacare-bloats-u-s-healthcare-system/#792a8e1e5a0b. The proponents of the ACA told the public more of the uninsured would be able to find coverage therefore obtain better health care. The article previously cited indicates the vast majority of newly covered people have enrolled in the expanded Medicaid programs. Some studies indicate that Medicaid recipients have no better health outcomes than people without insurance. Some studies indicate the outcomes are actually worse due to an increasing lack of proficient doctors accepting these patients as well as other reasons, see http://www.usatoday.com/story/opinion/2013/11/11/obamacare-health-care-obama-medicaid-avik-roy-column/3489067/ and http://www.forbes.com/sites/theapothecary/2013/05/02/oregon-study-medicaid-had-no-significant-effect-on-health-outcomes-vs-being-uninsured/#10cad86173aa. Upon knowledge and belief, these articles help substantiate the claim that the primary purpose of the ACA was to benefit Democrats and some of their constituencies, not the general public. A well publicized goal of many in the Democrat party including President Obama is a "single payer" or "Universal" heath care system. Such a system represents an expansion of Federal government power to direct and take control of health care for all individuals in the US. The ACA is a step in this direction. These Democrats will use any failure of the ACA to justify another step in the direction of single payer. Even if the ACA was not designed to fail outright, it was created

with a high degree of incompetence and negligence for the welfare of the general public. In any case, it is a self serving, capricious, and unreasonable Act. I therefore submit the ACA as a whole violates substantive due process rights guaranteed in the US Constitution.

CLAIM VIII

Violation of Constitutional Guarantees prior to the ACA

36. This claim builds upon all previous paragraphs and claims which I incorporate here in. Events very much prior to the ACA set the stage and made the abuses described in the previous claims possible. I will now attempt to outline these events and how they enabled the passage of the ACA to set a basis for this claim. The Supreme Court in 1796 decided a case, Hylton v. United States, 3 U.S. 171, 1 L. Ed. 556, 1 L. Ed. 2D 556 (1796), on a carriage tax enacted by Congress. The plaintiff held it to be a direct tax. Two factors weighted heavily on the Judges. No explicit power was granted to them in the Constitution to rule a law unconstitutional. They were all aware of the enormous trouble pre-Constitution federal governments had with raising money. They did not want to impede the collection of taxes. I believe these factors very much influenced their opinions. They did not provide a definition of direct or indirect taxes. Justice Chase believed that direct taxes consisted only of a capitation and a land tax, but refused to give an official opinion to this effect. Justice Paterson appeared to indicate that direct taxes may include other taxes than the two mentioned by Justice Chase. Justice Paterson disagreed with and was

opposed to the apportionment concept in the Constitution itself. He seemed to consider it unworkable and unfair to apply to any tax, not only direct taxes. Justice Iredell went a step further, he appears to have concluded that any tax which can not be fairly apportioned can not be considered direct. The other Justices did not express much opinion on the subject of direct and indirect taxes, but affirmed the opinion the carriage tax was permissible under the Constitution. The judges did not seem to question if the tax passed by Congress would have awkward consequences if it were treated as a direct tax, then perhaps the Constitution did not intend such a tax to be passed. The wording and effect of the Law appear to tax the ownership and possession of the carriage. It does not appear possible to avoid the tax by not using the tax object. Based upon the definition I provided in Claim VI, the carriage tax is a direct tax.

37. The issue of a tax on land being one of the two possible direct taxes has been mentioned in many court decisions to follow. However, similar to any other tax, an individual must pay the tax from his income, savings, or proceeds from the sale of possessions. If an individual fails to pay taxes the federal government deems are owed, the government does not treat land any different than any other asset. Without regard to any apportionment, land can be seized and sold to pay the taxes owed. Therefore, I see in effect no special status land occupies in relation to other assets. Land as any other possession can be interchanged with currency. If as these pronouncements would have us believe, only Land and Capitation are the only direct taxes. As Capitation is explicitly

mentioned in the Constitution, why did the founders not simply add the word Land instead of introducing a supposedly indistinct category like "direct" tax unless they believed the word conveyed a deeper meaning and encompassed more than one additional tax object?

38. The question of whether the tax could be imposed fairly brought up by many of the Judges is a completely separate one from the question of whether it is a direct tax. The Judges improperly confounded these two questions. Such a tax can be imposed fairly and be apportioned. I shall give an example. First, it should be recognized that an apportionment by State according to population is equivalent to apportionment by population of the entire United States. Congressional districts are drawn based upon nearly equal population. They become smaller where the population is more dense. If the number of carriages in a district is not known, as mandated by the Law a sum of $10 could be collected for each carriage. The total sum for each district could be calculated, The district with the smallest sum or some other reasonable value could set the total to be collected in each district. Thus the rate could be determined in all districts. Monies collected in excess of the determined sum could be returned to the taxpayer or held for credit to the following year. If the number of carriages is known or after the first year a more suitable tax per carriage could be determined for a particular district, which would be no different than dissimilar tax rates in cities and other jurisdictions existing today. This system may also have an ameliorative effect on the drawing of congressional districts by the State Legislatures. The incentive to Gerrymander may have been lessened. The

course of American history would have been very different. Other ways to satisfy the apportionment requirement of the Constitution and impose a direct tax exist. Even if communication and computational skills posed a substantial challenge in the days of this decision, that is no longer the case with the computer and communication capabilities of today.

39. Since the Hylton decision, the Supreme Court has found every tax passed by Congress to not be a direct tax "in the meaning of the Constitution," unless Congress defined it a direct tax, save one very notable exception. In Pollock v. Farmers Loan & Trust Co., 157 U.S. 429 (1895), an income tax passed by Congress was challenged as a direct tax. The court felt constrained by previous decisions, but declared the Law unconstitutional based upon some aspects of the new law which were not covered by previous Supreme Court decisions. This decision motivated the passage of 16th amendment to the Constitution. Chief Justice Fuller reviewed many of the thoughts of the founders and others at the time on the meaning and understanding of direct and indirect taxes in the Constitution as well as the motivation for joining the apportionment of the house and direct taxes in the majority opinion of the court. The definitions I advanced in a previous Claim, which involve the simple meaning of the words direct and indirect appear to be the ones accepted by many people at the time the country was founded. Quoting Justice White, who was opposed to the ruling of the Fuller Court, "Black, writing on Constitutional Law, says: "But the chief difficulty has arisen in determining what is the difference between direct taxes and such as are indirect. In general usage, and according to the terminology of

political economy, a direct tax is one which is levied upon the person who is to pay it, or upon his land or personalty, or his business or income, as the case may be. An indirect tax is one assessed upon the manufacturer or dealer in the particular commodity, and paid by him; but which really falls upon the consumer, since it is added to the market price of the commodity which he must pay..."

40. It is no coincidence the Constitution requires that representation in the House and direct taxes are to be apportioned by population, which is stated twice in the Constitution, and all appropriation bills must start in the House. I quote from Chief Justice Fuller's majority opinion, "The men who framed and adopted that instrument had just emerged from the struggle for independence whose rallying cry had been that "taxation and representation go together." The mother country had taught the colonists, in the contests waged to establish that taxes could not be imposed by the sovereign except as they were granted by the representatives of the realm, that self-taxation constituted the main security against oppression. As Burke declared, in his speech on Conciliation with America, the defenders of the excellence of the English constitution 'took infinite pains to inculcate, as a fundamental principle, that, in all monarchies, the people must, in effect, themselves, mediately or immediately, possess the power of granting their own money, or no shadow of liberty could subsist.' The principle was that the consent of those who were expected to pay it was essential to the validity of any tax." Thomas Jefferson referred to this principle as the "consent of the governed" in the Declaration of Independence.

Regardless of the exact definition of direct tax, clearly the authors of the Constitution intended to institute a check no less important than the checks and balances between the branches of government and perhaps more important as it was intended to be a check by the people on their government. Alexander Hamilton indicated such in Federalist No. 35. The provisions in the Constitution were intended to prevent the abuses of the past while providing for the future economic and political stability of the Union. The passage of the income tax was a violation of this structure as I believe Justice Fuller was trying to point out. At first it was only a $10 carriage tax. One hundred years later it was a 2% income tax, which is very mild by today's standard. A current Democrat presidential candidate is calling for a 90% income tax rate. The destruction of this check in the Constitution along with a general moral decline in the country, which may in part have been aided by the removal of this check, is resulting in increasing instability in the country. The Left has used the destruction of this check for demagogic purposes. The rise in popularity of their ideas has allowed them to increasingly concentrate taxes and burdens on a minority of the population without any concomitant increase in representation as intended by the founders. The ACA is simply a result of this continuing efforts on the part of the Left to give away benefits to influence votes and increase their power. Any solution to this problem must either change the representation in the house such that it is elected on the basis of the proportion of money paid by a citizen into the federal treasury, or all federal taxes be brought back into line with the proportion of the population which is paying

those taxes. Such a change will reestablish the balance of power of competing groups intended by the founders.

41. The question of fairness of the tax was raised by the judges in the Hylton case. It has also been raised by many politicians to this day. Congress intended to tax what they perceived as luxury or wealth as indicated by the words of Madison at the time of the carriage tax,. The proponents of the income tax when it was proposed had a similar motivation. The proponents of raising the income tax rates to this day claim similar motivation and exclaim, "It is only fair." However, the Constitution assumes each individual would have one vote, and therefore consistent with the principle of consent of the governed each individual must have an equal share in all direct taxes. Is it fair for some voting block to saddle all the taxes on a minority with out giving them a proportionate voice in how their money is to be used? The judges solution has been to redefine direct taxes to the extent that the term has nearly lost all meaning. Thus the judges ignored the Constitution and imposed their brand of fairness toward the legislature and the groups it has decided to favor or penalize. By so doing, these judges have in effect diluted and diminished the voting rights of those groups adversely affected and denied them the Consent of the Governed.

42. I submit this violation of the constitution has resulted in an unjust, unfair, and unchristian situation. Christ may have goaded the wealthy to give to the poor. However, I know of no instance in which he advocated using any type of force to extract money or property from them. It was always their uncoerced choice. At this point, given the infrastructure and institutions built up around

the current system as well as the 16th amendment, it will be difficult or impossible to return to the same check provided by the founders. An alternative solution may be possible. The principal of consent of the governed may be restored by changing the apportionment of representatives side of the equation to match the apportionment of taxes. A system where a mathematical weighting factor is applied to every ballot in proportion to the voter's contribution to the treasury for only House of Representative elections could be created. The elected representatives would in like manner need to be weighted in all of their ballots in the House. It would be most consistent with the Principle of Consent of the Governed to include all direct and indirect taxes paid by the individual, but due to their anonymous nature accounting for indirect taxes may be some what more difficult, which is further evidence for the segregation and different treatment given these two categories of taxes by the founders. With today's computer resources, this system can be relatively easy to achieve. Such a system would have the added advantage of being self regulating and help protect affected numerical minorities from oppressive taxation. Any time the tax burden is shifted the weighting factor will change in favor of the newly burdened parties in the next election cycle. Unfortunately, I can not think of an exclusively Judicial remedy which can achieve the entirety of this solution.

Request for Relief

43. On 10/15/2020 the 5th Circuit Appeals Court in case no. 18-20440 vacated the ruling of the District Court and remanded this case, which had dismissed it

with prejudice. The claims in this document have been better defined and supported by my court filings after the original Complaint. Please refer to these documents for further information, which I incorporate by reference. As of this writing, it is likely the US Congress will increase taxes including the Individual Mandate Penalty. In that event I will ask for a temporary injunction upon the government barring the government from imposing this penalty or any interest or other penalty for failure to maintain health insurance coverage upon myself or any similarly situated individual until this matter is resolved in the courts. Likewise, should the US President remove the exemptions to the HHS Mandate, I will request an injunction. I maintain the current individual exemption does not appropriately cover my situation, however the fig leaf of any sort of exemption will be gone and a definite change in the status quo will have occurred.

44. The 5th Circuit Appeals Court in their decision to vacate and remand indicated the Complaint should be modified to assure compliance with Federal Statute. This amended compliant is being submitted for this reason. 28 U.S.C. § 1346(a)(1), 26 U.S.C. §§ 6532(a)(1) and 7422 provide a District Court with jurisdiction, require a claim form be filed with the IRS at least six months before a Federal Court is allowed jurisdiction, and require the taxes in dispute are to be paid in full. I filed IRS claim forms for the full amount I calculated was due for the Individual Mandate Penalty each year the penalty was due. The IRS honored the 2018 claim form and refunded the Individual Mandate Penalty for that year. Otherwise, the following sums were paid: 2014 => $900.93; 2015 => $1267.39; 2016 => $625; 2017 => $2832.9, for a total sum of $5626.22. As of

this writing, all IRS claim forms have been filed well in excess of six months ago. Therefore, the requirements of the statutes have been fully met and this court has jurisdiction. If the court should find Claim I valid, then I would ask the court to compel the IRS to refund to me the sum of money requested on all IRS claim forms not previously refunded.

45. If the court should rule any or all of Claims II, III, or IV valid, I ask the court to use its power to declare the HHS et. al. Mandate invalid. As the imposition of this Mandate was introduced through a backdoor in the ACA, which did not require these non-preventive services, the Defendants may find another backdoor to insert the same or similar requirement. As *Janus v. AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES, COUNCIL 31, No. 16-1466 (U.S. June 27, 2018)* overturned *Abood* which allowed Compelled Associations, I ask the Court to declare the ACA unconstitutional and all regulations and statutes promulgated under its auspices be revoked in addition to the refund of monies in ¶44.

46. If the court should find Claim V valid, then I ask the Court to declare the ACA unconstitutional, all regulations and statutes promulgated under its auspices should be revoked, and all penalties including my Claims in ¶44 be refunded.

47. If the court should find Claim VI, A, B, C or D, or Claim VII to be valid, then I pray to God and ask the court to declare the ACA unconstitutional. Any and all regulations promulgated under its auspices the court should compel be revoked thereby removing these oppressive Rules and Laws from the country. All penalties should be refunded including those in ¶44.

48. If the court finds validity in Claim VIII, I ask the court for a declaration defining a direct tax in compliance with the meaning in the Constitution in order to prevent future harm and injustice. A Direct Tax should be defined as any exaction from an individual, which the individual can avoid only by not possessing the object taxed. Direct taxes often have the characteristics of targeting the individual specifically and require additional information to adjust the tax to the individual. Indirect taxes are to be defined as any tax which can be avoided by not initiating an action upon a tax object. This class of taxes often allows anonymity of the citizen, has a voluntary nature, and requires little information beyond the details of the transaction. Direct taxes include Capitation, Property, and Income, among other taxes. Indirect Taxes include among others, Imposts, Duties, and Excises if properly structured. Similar language may be acceptable as long as the principles contained here and in the Constitution are maintained.

49. If the court should find validity in Claim VIII, I would ask the court for any other relief available to the court and by Law which may be determined before final disposition of this case.

50. I ask that the same relief be applied to any similarly situated individual.

51. I also ask for any other relief the court finds to be appropriate including legal expenses.

John J. Dierlam
5802 Redell Road
Baytown, TX 77521
Phone: 281-424-2266

Certificate of Service

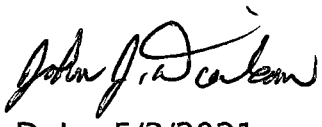
I certify I have on May 4, 2021 mailed a copy of the above document to the clerk of the court at:

United States District Clerk
Southern District of Texas
515 Rusk, Room 5300
Houston, TX 77002

as I do not have access to the Court's electronic filing system. I have also mailed a copy to defendant's Counsel at:

Emily S. Newton
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue, NW, Room 7132
Washington, DC 20530

I have emailed a courtesy copy to the defendant's counsel at Emily.S.Newton@usdoj.gov as well as the Case Manager for the Judge of the Court at Arturo_Rivera@txs.uscourts.gov.



Date: 5/3/2021
John J. Dierlam
5802 Redell Road
Baytown, TX 77521
Phone: 281-424-2266

Please find enclosed my 2nd Amended Complaint and a Motion for Case 4:16-cv-00307 submitted for filing.

Thank you,

John J. Dierlam
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