Open Letters To:

- Arizona Governor Janice K. Brewer
- Virginia Attorney General Kenneth Cuccinelli
- Chief Justice John Roberts
  Supreme Court of the United States

# In Defense of the U.S. Constitution

## Restore
## U.S. Supreme Court
## Original Jurisdiction

**August 12, 2010**

To: Arizona Governor Janice K. Brewer
Cc: Arizona Senator Russell Pierce
Cc: Judge Susan Bolton, U.S. District Court for The District of Arizona
Re: Lack of Original Jurisdiction of U.S. District Court for the District of Arizona
To hear the Complaint by U.S. Dept. of Justice against State of Arizona
From: Jeff Lewis, National Director, FIRE Coalition & Patriot Coalition
Date: August, 04, 2010

Governor Brewer,

The passage of SB-1070 is an inspiration to statesmen from coast to coast who desire to protect their states from the largest invasion in world history. The federal government's refusal to protect Arizona from invasion has facilitated the ongoing invasion of my home state of North Carolina and has costs tens of thousands of Americans their lives at the hands of illegal alien insurgents on American soil since 9/11/2001.

Protecting the State's Rights of Arizona as guaranteed by the 9th and 10th Amendments cannot be achieved without restoring Constitutional governance. I beseech you to read the U.S. Constitution, Article III, Section 2, Clause 2, Part One, Alexander Hamilton's Federalist Essay 81, and the complaint itself. The U.S. Constitution, Article III, Section 2, Clause 2, establishes "original jurisdiction" for cases "in which a State is Party" solely with the U.S. Supreme Court, not with any "inferior" courts.

A return to limited, Constitutional governance requires that we uphold every single article, section, and clause of the U.S. Constitution. Also, the right to seek direct redress to the highest court in the land was no doubt afforded the States such that issues concerning the sovereign States would more expeditiously be resolved, thereby forestalling the chance that their citizenry would be held in limbo while an action involving the States works its way through the arduous and time-consuming appellate process. **The federal government, by unconstitutional statutes, is relegating the State of Arizona, and by implication, all states, to the same status given to a single citizen of the Republic rather than the elevated status acknowledged by the framers of the Constitution.**

The Justice Department has cited US Code Title 28, Sections 1331 and 1345 as justification for the U.S. District Court for the District of Arizona having "original jurisdiction" to hear the complaint it filed. Article V does not authorize federal statutes as a method to amend the Constitution, therefore, the U.S. District Court for the District of Arizona does not have jurisdiction, original or otherwise to even hear the case. Its rulings therefore, are unconstitutional, null and void.

Article IV, Section 4, guarantees that the United States will protect each State against invasion, and that includes Arizona. The facts bear out that Arizona, and the other 49 States are in the

middle of largest invasion in world history as a direct result of the federal government's refusal to secure our air, sea, and land ports of entry, and its refusal to enforce our immigration laws.

Arizona should withdraw from the case, and as governor, you should reinstate all tenets of SB-1070 as signed into law until such time that a court that does have constitutional original jurisdiction to hear the case has done so. To my knowledge, no such complaint has been filed with the "court of original jurisdiction," namely, the U.S. Supreme Court.

Article III, Section 2, Clause 2, Part One is a fundamental protection of States' Rights embodied in the Constitution. When one State fails to defend its right to have both Law and Fact heard by the Supreme Court, it undermines the very fabric of Constitution, and marginalizes the States' Rights of the other 49 States in the Union.

When Arizona joined the Union in 1912 it entered into a compact with 47 other States that we laymen refer to as the U.S. Constitution. In your Official Capacity as Governor of Arizona, having taken an Oath to uphold and defend that Constitution, you are duty-bound to abide by it. Participating in this case in a court that has no jurisdiction is by definition a usurpation of the Constitution, whether you have done so knowingly, or not.

This particular case is not the first time this has happened, but you, as Governor, are in a position to rectify it, and your Oath of Office requires it. That U.S. District Court Judge Bolton is accepting briefs in opposition to Arizona from numerous foreign countries who have no business meddling in the affairs of Arizona undermines the sovereignty of ALL 50 states, not just Arizona.

Please help restore Constitutional governance and demand that the court of constitutionally-mandated "original jurisdiction" hear this case. Attached is my letter to Chief Justice Roberts requesting he "do his job."

God Bless America, and those that defend Her!

Respectfully,

**Jeff Lewis**
**National Director, FIRE Coalition**
**National Director, Patriot Coalition**
Jeff@firecoalition.com

**God Bless America and Those That Defend Her!**

To: Attorney General Kenneth T. Cuccinelli, II
Re: Commonwealth of Virginia v. Kathleen Sebelius
C/o: Brian J. Gottstein, Director of Communication
Ph: 804-786-5874

From: Jeff Lewis, National Director
Patriot Coalition
Ph: 252-876-9489
Date: August 9, 2010

Attorney General Cuccinelli,

The Commonwealth of Virginia v. Kathleen Sebelius complaint is unconstitutional as it violates Article III, Section 2, Clause 2.

Article VI, Section 3, defines your obligation, as exampled by your Oath of Office, to defend not just the parts of the Constitution you may feel relevant to this particular case, but to uphold and defend all of them.

While we appreciate your efforts to protect the citizens of Virginia from an illegal and un-constitutional mandate by the federal government, facilitating Constitutional governance requires that ALL Articles and Amendments to the Constitution be upheld and vigorously defended.

In essence, the federal government's pattern of usurpations and abuses of States' Rights does not afford you the authority to do the same in combating usurpations of the Constitution, and actually does harm to efforts to restore Constitutional governance. Two wrongs don't make a right.

The U.S. District Court for the Eastern District of Virginia has no Constitutional jurisdiction to even hear this case, let alone grant a "Declaratory Judgment" against Section 1501 of the PPACA.

The Commonwealth of Virginia, being a "State" in the Union, with grievances against the United States of America, is in fact a "Party" in a case under the federal judiciary/system as established by the Constitution..

**JURISDICTION AND VENUE (Items 9-10)**

For a court to have "jurisdiction", it has to have "authority" to hear a case. In a case in which a U.S. District Court has jurisdiction, you also have to establish "venue," which means "where the case is physically heard."

Your assertion that the U.S. District Court for the Eastern District of Virginia is the proper venue is meaningless, since there is no Constitutional jurisdiction.

Virginia's complaint cites three federal statutes to establish jurisdiction and venue within the U.S. District Court for the Eastern District of Virginia:

> US Code, Title 28, Part IV, Chapter 85, Section 1331 (**Federal Question**)
>
> US Code, Title 28, Part V, Chapter 127, Section 2001 (**Sale of Realty Generally**)
>
> US Code, Title 28, Part IV, Chapter 87, Section 1391(e)(2) (**Venue Generally**)

**SECTION 1331**

Section 1331 is inconsistent with the U.S. Constitution, Article III, Section 2, Clause 2, Part One, and inapplicable for cases in which "a State is Party."

> US Code, Title 28, Part IV, Chapter 85, Section 1331 (**Federal Question**)
>
> "The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States."

In a nutshell, the application of USC 28, **Section 1331 is unconstitutional** in this instance because it attempts to subjugate cases "in which a State is Party" to inferior courts, thus undermining a States' Constitutional Right to be heard by the proper court of "original jurisdiction," the Supreme Court.

The Constitution's Article III, Section 2, Clause 2 does not grant the Supreme Court, in exercising its jurisdiction, the authority to subjugate or relegate cases "in which a State is Party" to an inferior court, nor does it grant Congress the authority to make exceptions, or establish regulations that subjugate a State to inferior courts within the federal judiciary.

Article III, Section 2, Clause 2, Part One establishes the Supreme Court as the court of "**original jurisdiction**" for "cases in which a State is Party." It does not differentiate whether the State is a plaintiff or a defendant in a case, merely that it is Party. There is no ambiguity in the Framers intent evidenced in their words.

Article III, Section 2, Clause 2, Part Two gives the Congress the authority to make exceptions and establish regulations regarding *all the other cases* listed in Article III, but ***not*** in cases "in which a State is Party."

U.S. Constitution, Article III, Section 2, Clause 2 (**Scope of Judicial Power**)

> "In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make."

Joe and Jane Citizen, and our public servants need look no further for clarity on this matter than the Framers themselves. Alexander Hamilton explained the scope of federal Judicial Power as it relates to States' Rights in Federalist 81.

> Federalist 81: The Judiciary Continued & Distribution of the Judicial Authority,
>
> "The Supreme Court is to be invested with original jurisdiction, only "in cases affecting ambassadors, other public ministers, and consuls, and those in which A STATE shall be a party."
>
> In cases in which a State might happen to be a party, it would ill suit its dignity to be turned over to an inferior tribunal." *–Alexander Hamilton, Federalist 81*

**SECTION 2001**

In Virginia's "Complaint for Declaratory and Injunctive Relief," Page 3, Item 9, the complaint cites US Code, Title 28, Part V, Chapter 127, Section 2001 as justification for the U.S. District Court for the Eastern District of Virginia having jurisdictional authority to issue a "declaratory judgment" against Section 1501 of the Patient Protection and Affordable Care Act (PPACA).

US Code, Title 28, Part V, Chapter 127, Section 2001 speaks specifically to the authority granted "any court of the United States" to dispense with "any realty or interest to be sold under any order or decree of any court of the United States."

To our knowledge, no "court of the United States" has "decreed or ordered" any realty or interest to be "sold," making this particular justification for the U.S. District Court for the Eastern District of Virginia" having jurisdiction to issue a "declaratory judgment" irrelevant and inapplicable.

The U.S. District Court for the District of Eastern Virginia no more has "jurisdiction" (original or otherwise) to hear Virginia's complaint, and/or issue declaratory judgments than the judges on American Idol.

**SECTION 1391(e)(2)**

While Section 1391(e)(2) might satisfy venue requirements in respect to Secretary Sebelius being named a defendant in the case, "venue" cannot be established for a court that has no jurisdiction to hear a case in which a state is party. It does not matter whether the state is plaintiff or defendant. The "venue" was predetermined by the simple fact that there is only one "supreme court."

> U.S. Code, Title 28, Part IV, Chapter 87, Section 1391(e)(2)
>
> (e) A civil action in which a defendant is an officer or employee of the United States or any agency thereof acting in his official capacity or under color of legal authority, or an agency of the United States, or the United States, may, except as otherwise provided by law, be brought in any judicial district in which
>
> (1) a defendant in the action resides,
>
> (2) a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated,

Section 1391(e)(2) is not in conflict with Article III, Section 2, Clause 2 in respect to Secretary Sebelius being a defendant, but that is a moot point since the other party, Virginia has a Constitutional guarantee that only the Supreme Court would hear its case.

Section 1391(e)(2) cannot establish a district court as the "proper venue" for a case in which the supreme law of the land, the U.S. Constitution establishes the Supreme Court as the sole and "proper venue" for cases in which a "State is Party."

Statutes, laws, and judicial practice do not supersede the U.S. Constitution, period.

We the People have a fundamental and Constitutional expectation of the States to stand between us and a rogue federal government. When state officials participate in court proceedings on behalf of the People of a State, in a court that does NOT have jurisdiction, this undermines States' Constitutional Rights. As a result, there is a strong likelihood the federal government will be more readily inclined to disparage or deny the citizens other rights, whether enumerated or not, based on a State's ignorance of the Constitution, or dereliction in the protection of States' Rights.

> U.S. Constitution, 9th Amendment
>
> "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

## CONCLUSIONS AND RECOMMENDATIONS

Attorney General Cuccinelli, Virginia's complaint against the PPACA should be withdrawn from the U.S. District Court for the Eastern District of Virginia, and filed with the United States Supreme Court.

It does not matter how many times activist judges have allowed this unconstitutional subjugation of the States to "inferior courts," it is still UNCONSTITUTIONAL.

If this case continues through the appellate process, then the Supreme Court, under its "appellate jurisdiction" authority established in Article III, Section 2, Clause 2, Part Two, could refuse to hear the case, allowing an inferior court ruling to stand.

Did the Framers of the Constitution intend for a State to be told "Let them eat cake!" by inferior courts? The Constitution doesn't even give the Supreme Court "appellate jurisdiction" to hear a case in which a State is Party, only "original jurisdiction."

This is a slippery slope sir, in which Congress and the Courts have conspired together to satisfy an end that has no Constitutional means by which to achieve it.

Any rulings by district or appellate courts in this case are null and unenforceable.

Please read the letters Arizona Governor Brewer, and SCOTUS Chief Justice Roberts regarding their roles in restoring constitutional governance at the FIRE Coalition Blog.

As Attorney General for the Commonwealth of Virginia, you must uphold the Constitution, stand up for States' Rights, and help restore constitutional governance.

Respectfully,

Jeff Lewis
National Director, FIRE Coalition
National Director, Patriot Coalition
Jeff@firecoalition.com
Phone: 252-876-9489

To: Chief Justice John Roberts, Supreme Court of the United States

Re: Case 2:10-cv-01413-NVW U.S. District Court for the District of Arizona
United States of America (plaintiff) v. The State of Arizona and Governor Brewer
Original Jurisdiction of Complaint by U.S. Dept. of Justice against State of Arizona

From: Jeff Lewis
National Director, FIRE Coalition
National Director, Patriot Coalition
Jeff@firecoalition.com
August, 04, 2010

Honorable Chief Justice Roberts,

I am not a lawyer, and unlike the Obama Justice Department and many Members of Congress, I have actually read the U.S. Constitution. I have also on more than one occasion taken an oath to uphold and defend it, and done so honorably. What I see going on right now in the U.S. District Court for the District of Arizona is totally contrary to what the U.S. Constitution requires, and disrespects the 1.314 million Americans who died defending it. Only the U.S. Supreme Court has "original jurisdiction" to hear this case according to U.S. Constitution, Article III, Section 2, Clause 2, Part One. This illegal and un-Constitutional ruse should cease at once. If the Obama Justice Department wishes to challenge The State of Arizona's SB-1070, they should be required to file their complaint in the constitutionally appropriate court, the Supreme Court of the United States, and no other.

President George Washington, in his 32-page handwritten Farewell Address, advised:

> *"Against the insidious wiles of foreign influence (I conjure you to believe me, fellow-citizens) the jealousy of a free people ought to be constantly awake, since history and experience prove that foreign influence is one of the most baneful foes of republican government. But that jealousy to be useful must be impartial; else it becomes the instrument of the very influence to be avoided, instead of a defense against it. Excessive partiality for one foreign nation and excessive dislike of another cause those whom they actuate to see danger only on one side, and serve to veil and even second the arts of influence on the other. Real patriots who may resist the intrigues of the favorite are liable to become suspected and odious, while its tools and dupes usurp the applause and confidence of the people, to surrender their interests."*

**-President George Washington, Sept. 19, 1796**

As Chief Justice of the Supreme Court of the United States, you also took an oath to uphold the Constitution, and should take immediate action to uphold Article III, Section 2, Clause 2. According to the U.S. Constitution, the Supreme Court hears two types of cases, namely, those in which SCOTUS has "original jurisdiction," and those in which SCOTUS has "appellate jurisdiction."

The State of Arizona, named as a defendant, is a "Party" in Case 2:10-cv-01413-NVW, **U.S.A. v. State of Arizona**, as is Governor Janice K. Brewer, in her Official Capacity, currently before THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

No court "inferior" to the U.S. Supreme Court has jurisdiction to hear the case brought by the Justice Department challenging Arizona's SB-1070, according to the U.S. Constitution, and therefore, three things need to happen in respect to this case:

1. U.S. District Court, District of Arizona should cease and desist hearing the case, and should withdraw any un-Constitutional injunctions it attempted to impose outside of its Constitutional authority. In this case, it has none.
2. Governor Brewer needs to re-instate SB-1070, and all provisions illegally placed on hold by a court that had no Constitutional jurisdiction.
3. The Obama Administration should have the Justice Department prepare a complaint and file it with the ONLY court that does have "original Jurisdiction" in cases in which "a State is Party," as per the U.S. Constitution, Article III, Section 2, Clause, 2, Part One, cited below, should they desire to pursue their disagreement with the State of Arizona in a lawful, Constitutional manner.

The U.S. Constitution, Article III, Section 2, Clause 2, Part One is very specific in respect to which court has "original jurisdiction" to hear a case "in which a State is Party."

> U.S. Constitution, Article III, Section 2, Clause 2, Part One clearly states:
>
> *"In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original jurisdiction."*

The U.S. Constitution, Article III, Section 2, Clause 2, Part Two is also very specific when it mandates that the Supreme Court has "appellate Jurisdiction" for ALL OTHER CASES.

> U.S. Constitution, Article III, Section 2, Clause 2, Part Two clearly states:
>
> *"In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and fact, with such Exceptions, and under such Regulations as the Congress shall make."*

It is very important to note that Congress has NO authority to transfer, or legislate to inferior courts those cases which the "Supreme Court shall have original Jurisdiction."

As the Chief Justice is aware, "original Jurisdiction" means: the court which has the duty to "first hear the case." Now, considering that Article III, Section 2, Clause 2 states that the Supreme Court "*shall have original Jurisdiction*," and does not say "*may have original Jurisdiction*" speaks to the Founders' intent to recognize the place in the food-chain that states occupy.

Attempts by Justice Department lawyers to subjugate one of the "united" States to an inferior court, and attempts to justify that act by citing un-Constitutional parts of the U.S. Code, Title 28 undermine the Constitution and marginalizes state's rights.

SCOTUS does not have the Constitutional authority to delegate a case "in which a State is Party" to an inferior court.

Congress does not have the Constitutional authority to pass laws or make exceptions to "original Jurisdiction" for cases "in which a State is Party."

No law, or statute, or U.S. Code trumps the U.S. Constitution.

The U.S. Constitution, Article III, Section 2, Clause 2, states in plain English that there is only one court in the land that has "original jurisdiction" to hear a case "in which a State shall be Party," and that is the U.S. Supreme Court.

Arizona Governor Janice K. Brewer, and the State of Arizona should uphold and defend state rights by demanding the U.S. Constitution, Article III, Section 2, Clause 2 be upheld, as they are duly sworn to do. Arizona should immediately cease and desist from participating in inferior court proceedings regarding this case, and Arizona Governor Brewer should issue an Executive Order re-affirming Arizona's SB-1070 stating that it be enforced until such time that the federal government obtains a judgment by the Constitutionally-mandated court of "original Jurisdiction," which, according to Article III, Section 2, Clause 2, is none other than the Supreme Court of the United States.

While the "U.S. District Court for the District of Arizona" may be an appropriate inferior court to hear cases as the court of "original jurisdiction" in some cases, it is clearly not the court of "original jurisdiction" in cases in which a "State is Party," and any participation by Governor Brewer in her Official Capacity and by the State of Arizona in U.S. District Court proceedings would serve to undermine the U.S. Constitution, if not make a mockery of it.

The U.S. Constitution does not grant the Congress the authority to make Exceptions to cases "in which a State shall be a Party," and in fact, specifically prohibits such by virtue of clearly

separating which types of cases the Supreme Court has original jurisdiction over, and which cases the Supreme Court acts in an appellate capacity.

The relevant sections of U.S. Code Title 28 cited below are themselves in conflict with the U.S. Constitution, Article III, Section 2, regarding "Jurisdictions" of both the U.S. Supreme Court and U.S. District Courts, and should not be considered as justification for determining either "jurisdiction or venue."

We the People deserve better than this.

Lastly, the exact same "common sense" reading of the U.S. Constitution, and the "original Jurisdiction" mandates laid out in Article III, Section 2, Clause 2 apply to ANY case in which a "State is Party," including Virginia's case against the unconstitutional Obamacare.

Virginia Attorney General Cuccinelli should also withdraw from the proceedings and demand that their case be heard by the U.S. Supreme Court, and no other.

If there's any question as to the original and true intent of the Constitution regarding "original jurisdiction" in cases in which a "State is Party," one need look no further than Alexander Hamilton's Federalist Paper 81: The Judiciary Continued, and the Distribution of the Judicial Authority.

Chief Justice Roberts, uphold your Oath and stop this usurpation of the Constitution.

Respectfully,

**Jeff Lewis**
**National Director**
**FIRE Coalition**
**Patriot Coalition**
Jeff@firecoalition.com

**God Bless America and Those That Defend Her!**

TITLE 28 > PART IV > CHAPTER 81

## CHAPTER 81—SUPREME COURT

### § 1251. Original Jurisdiction

**(a) The Supreme Court shall have original and exclusive jurisdiction of all controversies between two or more States.**
**(b) The Supreme Court shall have original but not exclusive jurisdiction of:**

**(1) All actions or proceedings to which ambassadors, other public ministers, consuls, or vice consuls of foreign states are parties;**
**(2) All controversies between the United States and a State;**
**(3) All actions or proceedings by a State against the citizens of another State or against aliens.**

§ 1251, (b)(2) totally contradicts the Constitution. Art. III, Sect 2, Clause 2, Part One does not say the Supreme Court has "first dibs." SCOTUS is obligated to hear the case.)

TITLE 28 > PART IV > CHAPTER 85

## CHAPTER 85—DISTRICT COURTS; JURISDICTION

### § 1331. Federal question

**The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.**

(As inferior courts, district courts have no jurisdiction when a "State is Party" in a case between it and the United States. The Constitution is quite clear on that.)

TITLE 28 > PART IV > CHAPTER 85

### § 1345. United States as plaintiff

**Except as otherwise provided by Act of Congress, the district courts shall have original jurisdiction of all civil actions, suits or proceedings commenced by the United States, or by any agency or officer thereof expressly authorized to sue by Act of Congress.**

(Contradicts Article III, Section 2, Clause 2 in cases "in which a State is Party.")