

LAW ALERT

SUPREME COURT UPHOLDS HEALTH CARE REFORM LAW

Brandon Long | June 28, 2012 | [Articles](#), [News & Comment](#)

At approximately 9:15 a.m. Central time this morning, the U.S. Supreme Court issued its long-awaited decision on the [Patient Protection and Affordable Care Act](#) (the Act). In a 5-4 decision delivered by Chief Justice John Roberts, the Court essentially upheld the entire Act, including the individual mandate. Interestingly, Roberts was the deciding vote in upholding the Act, joining Justices Ginsburg, Breyer, Sotomayor and Kagan. Conventional wisdom was that Justice Kennedy would be the swing vote, but as it turns out he joined Justices Scalia, Thomas and Alito in the dissent.



In the majority decision, the Court relied on Congress' taxing power to uphold the mandate: "Our precedent demonstrates that Congress had the power to impose the exaction in Section 5000A under the taxing power, and that Section 5000A need not be read to do more than impose a tax. That is sufficient to sustain it."

It appears that the only part of the Act that the Court held to be unconstitutional relates to the Act's expansion of Medicaid. The Court held that the Medicaid expansion violates the Constitution by threatening States with the loss of their existing Medicaid funding if they decline to comply with the expansion: "Congress is not free to ... penalize States that choose not to participate in that new program by taking away their existing Medicaid funding," wrote Justice Roberts.

The bottom line is that we must continue to focus our efforts to comply with the Act's requirements — especially those that will come into effect in 2013 and 2014. We are still reading through the 193-page, multi-part opinion and will keep you updated of any new developments or thoughts about today's decision. In the meantime, if you have any questions, [please let us know](#).

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About the author

Brandon Long is an experienced employee benefits attorney who concentrates his practice on qualified retirement plans, health and welfare plans, and executive compensation. He has represented a broad range of clients, including Fortune 500 companies, publicly traded and closely held businesses, middle-market companies, corporate trustees, hospitals, healthcare providers, partnerships, cities, universities and Indian tribes.

Brandon's practice is focused on matters involving 401(k) plans, defined benefit plans and employee stock ownership plans; audits and investigations by the IRS and the U.S. Department of Labor; mergers and acquisitions involving ERISA plans; retirement plans for tax-exempt and governmental entities, including Indian tribes; health and welfare issues, including healthcare reform; and executive compensation issues arising under Code Section 409A. He has particular experience fixing broken retirement plans and has filed and successfully resolved numerous voluntary correction applications with the IRS.

Brandon's clients seek his advice for practical, creative solutions to complex problems, and the ability to make highly technical concepts understandable to executives, employees, other lawyers and judges. A portion of his practice has been devoted to complex litigation, including ERISA litigation. In 2007, on behalf of a major insurance company, Brandon co-authored the petition for a writ of certiorari that was granted by the U.S. Supreme Court, and he helped prepare for and attended the oral argument in the Supreme Court, which issued an opinion in his client's favor.

Prior to returning to his hometown and joining **McAfee & Taft**, Brandon practiced with large national and international law firms in Dallas and in Washington, D.C.

Brandon frequently writes and speaks on employee benefits issues, and he has been a guest legal columnist and contributing author to various professional publications. His achievements have previously earned him inclusion in *Oklahoma Super Lawyers'* list of "Oklahoma Rising Stars," which recognizes the state's top up-and-coming attorneys. In 2010, Oklahoma City University School of Law honored him with its Outstanding Young Alumnus Award.

In addition to his professional accomplishments, Brandon has been the recipient of multiple awards honoring his service to the community. In 2011, he received the Oklahoma County Bar Association's Outstanding Young Lawyer Award, and he was a finalist for Leadership Oklahoma City's Paragon Award. In 2009, he was named to *The Journal Record's* list of Leadership in Law Award honorees for his professional and civic contributions to the state. Also in 2009, the Oklahoma County Bar Association presented him with its Community Service Award, noting his personal involvement and volunteerism, his leadership in getting other young lawyers involved, and for serving "as an example to all of us in the legal community that we can do a little more to make the world a better place." In 2008, he was honored with the Outstanding Director Award from the OCBA's Young Lawyers Division.



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ECONOMIC NUMBERS



Unemployment Rate

Nationally: 8.2% in May 2012

- **Oklahoma:** 4.8% in May 2012
- Arkansas: 7.3% in May 2012
- Kansas: 6.1% in May 2011
- Missouri: 7.3% in May 2011
- Texas: 6.9% in May 2012

Payroll Employment


+69,000 in May 2012

Average Hourly Earnings  

+ \$0.02 in May 2012

Employment Cost Index (ECI)  

+0.4% in 1st Qtr of 2012

Productivity  

-0.5% in 1st Qtr of 2012

Producer Price Index (PPI)  

-1.0% in May 2012

Consumer Price Index (CPI)  

-0.3% in May 2012

U.S. Import Price Index  

-1.0% in May 2012

U.S. Export Price Index  

-0.4% in May 2012

 [Historical](#)  [Release](#)

SOURCE: BUREAU OF LABOR STATISTICS

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