



## The Pinellas Protector



### In Memoriam, 2010

Before ringing in the New Year, we pause to remember those we lost in 2010. While we mourn the loss of our loved ones, it's also a time to celebrate their achievements and say thanks for the happiness they brought us and the memories that live on.

AH Insurance Services, Inc. lost its Company Mascot and two dear friends this year:

**Charley, My Beloved Dog**  
8/9/2002 - 5/27/2010

**George W. Wilson, Jr., Valued Client Since 2005**  
8/29/1941 - 11/20/2010

**Michael James Tucker, Client and Former Business Partner (Wakely Actuarial)**  
6/24/1948 - 12/22/2010

*We'll always remember you; and no one ever will replace you in our hearts.*

### PPACA -- Where Do We Go Now?

***Don't ever say it can't get any worse!***



In our last issue, we presented our perspective on the good and the bad aspects, as well as current unknowns of the historic Patient Protection and Affordable Care Act of 2010. While our summary analysis is available in the Newsletter Archive, we'll repeat the first bullet point presented in "The Unknown":

- Will lawmakers questioning the constitutionality of the individual mandate in the health care law be successful in overturning this aspect of health

#### In This Issue

[PPACA - Where Do We Go Now?](#)

[Client's Corner](#)

#### Quick Links

[AH Insurance Services Website](#)

[AH Insurance Services Blog](#)

[Newsletter Archive](#)



#### Quote of the Month:

"You can always count on Americans to do the right thing - after they've tried everything else."

- Winston Churchill

reform?

In our viewpoint, this question is all-important; because if the insurance mandate falls before its 01-01-2014 scheduled implementation date, related requirements seem likely to collapse too, most notably the provision to prevent insurers from denying coverage or charging discriminatory rates to those with pre-existing conditions.

It seems puzzling that lawmakers don't seek simpler solutions to cover more Americans who have pre-existing conditions, such as requiring insurers that offer medically underwritten coverage to sell guaranteed-issue policies during a pre-defined annual enrollment period. Rather than dismiss this idea as unworkable, legislators could seek creative solutions to manage the hazard that people would enroll only if in imminent need of expensive medical care. Also, these high risk plans might receive a subsidy to make them less cost prohibitive, which wouldn't amount to a crippling federal expenditure (at least as compared to current plans to expand Medicaid rolls).

But that aside, let us predict that this issue ultimately is headed to the U.S. Supreme Court. We say this because a recent challenge to compulsory coverage has been upheld in a federal district court. Previously, two district court judges (one in Detroit and the other in Lynchburg, Virginia) ruled to uphold the law.

In the ruling earlier this month, a federal judge in Virginia (that's where I grew up!) opined that the mandate is unconstitutional, becoming the first judge to invalidate any part of PPACA. The judge, Henry E. Hudson of the Federal District Court in Richmond, said that the requirement that most Americans obtain insurance exceeds the regulatory authority granted to Congress under the Commerce Clause.

But Judge Hudson declined the plaintiff's request to suspend the act's implementation pending appeal, which means there should be no immediate effect on its rollout. Nonetheless, the ruling seems likely to further destabilize political support for a law that has come under attack from lawmakers in many states.

In his ruling, Judge Hudson wrote that "Neither the Supreme Court nor any federal circuit court of appeals has extended Commerce Clause powers to compel an individual to involuntarily enter the stream of commerce by purchasing a commodity in the private market." He said further that allowing Congress to exert such authority "would invite unbridled exercise of federal police powers."

Regulating motor vehicles such that owners must carry accident insurance (as many states currently do) rightly is considered a different matter because the Constitution gives the states broad police powers that have been interpreted to encompass that; and furthermore there is no statutory requirement that people possess an automobile, only the requirement that they have insurance as a condition of doing so.

By contrast, the plaintiffs in the health care case observe that the new law would require people to purchase health insurance simply because they exist. With the implementation of PPACA, Descartes' famous quote might aptly be expanded to say: "I think; therefore I am in the market for health insurance!"

Of course, the insurance mandate is central to the law's mission of covering more than 30 million currently uninsured Americans. Insurers argue that only by requiring healthy people to have policies can they afford to pay for those with expensive conditions; but interestingly Judge Hudson ruled that many of PPACA's other provisions could be severed legally and would survive even if the mandate is invalidated.

The Obama Administration predictably was disappointed upon hearing of Judge Hudson's opinion, but as would be expected the Administration quickly pointed to the other federal court rulings that say PPACA is not unconstitutional. Officials also maintained that other provisions, including a vast expansion of Medicaid eligibility and the sale of subsidized insurance policies through state-based exchanges, would be likely to withstand even a Supreme Court ruling against the mandate.

For those following the legal discourse, this case seems to center on whether Congress can use its powers under the Commerce Clause to compel citizens to buy commercial health insurance for the purpose of regulating an interstate economic market. The Obama Administration also argues that absent this specific authority, Congress could use the taxation powers granted by the Constitution to justify the insurance mandate, as the fine for non-compliance is assessed as a tax penalty.

Judge Hudson commended Congress' "laudable intentions," but shot down both arguments. "At its core," he wrote, "this dispute is not simply about regulating the business of insurance - or crafting a scheme of universal health insurance coverage - it's about an individual's right to choose to participate."

Virginia Attorney General Ken Cuccinelli, who filed the lawsuit and wants to expedite the case by bypassing the appellate courts and sending it straight to the Supreme Court, scored political points with Judge Hudson's decision. But all politics aside, I understand Mr. Cuccinelli when he says that "this case is not about health insurance, it is not about health care. It is about liberty." Upon proper reflection, I think most readers would agree with him.

Featuring Salon Volo in St. Petersburg, Florida  
Owned by Our Valued Client Rob Godfrey

(727) 545-1905  
<http://salonvolo.com>

Each month, our eNewsletter features a product or service offered by one of our clients. This month we are pleased to feature Salon Volo, a Redken Club 5th Avenue Elite Salon located in St. Petersburg. In addition to providing a full range of hair design and nail services, Salon Volo offers a Cappuccino Bar for your comfort.

Owner Rob Godfrey spent 10 years during the initial growth of Salon Volo an international platform artist for Redken 5th Avenue. Now he directs his work efforts towards serving his clients, growing the business, and helping all of his talented staff members achieve their career goals.

[Click Here to Visit the Home Page of Salon Volo](#)

When I spoke with Rob this month, he confirmed that Salon Volo continues to offer \$20 off any service for first-time clients. For the first quarter of 2011, AH Insurance Services will match Rob's discount so that ***first-time clients will receive \$40 off any service.***

We hope you'll take advantage of this special offer from a special local business. As is customary for the salon business, gratuities are not included in the price of services.

**To Our Valued Clients and Friends -- We Wish You a Happy and Prosperous 2011!**

Until next year,

Andrew Herman  
AH Insurance Services, Inc.

Please add [info@ahinsuranceservices.com](mailto:info@ahinsuranceservices.com) to your contact list to prevent our eNewsletter from being filtered out by your spam blocker. If you are receiving this Newsletter via U.S. mail, please provide us with your email address so we can send it to you electronically. Using email for transmission saves paper and mailing costs.

If you have questions/comments, call us on 727-397-6932; or visit us online at [www.ahinsuranceservices.com](http://www.ahinsuranceservices.com).

Email Marketing by

