

In The  
Supreme Court of the United States

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NATIONAL FEDERATION OF  
INDEPENDENT BUSINESS, et al.,  
*Petitioners,*

v.  
KATHLEEN SEBELIUS,  
Secretary of Health & Human Services, et al.,  
*Respondents.*

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FLORIDA, et al.,  
*Petitioners,*

v.  
DEPARTMENT OF HEALTH  
AND HUMAN SERVICES, et al.,  
*Respondents.*

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**On Writs Of Certiorari To The  
United States Court Of Appeals  
For The Eleventh Circuit**

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**MOTION FOR RECONSIDERATION OF REQUEST TO PARTICIPATE AT  
ORAL ARGUMENT ON ISSUE OF RECUSAL OR DISQUALIFICATION OF  
JUSTICE ELENA KAGAN**  
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**MOTION FOR RECONSIDERATION OF REQUEST TO PARTICIPATE AT  
ORAL ARGUMENT ON ISSUE OF RECUSAL OR DISQUALIFICATION OF  
JUSTICE ELENA KAGAN**

Freedom Watch (FW), by and through the undersigned counsel, moves the justices of the U.S. Supreme Court for reconsideration of its denial of FW's motion to participate at oral argument concerning the issue of the requested recusal or disqualification of Justice Elena Kagan and as grounds therefore would show:

1. FW, which is a public interest group dedicated to promoting and protecting individual liberties and freedoms, filed an amicus curiae brief before this court on January 5, 2012. The brief can be found in the record and it is incorporated herein by reference.
2. Material to all the issues before the Court in this case, the amicus brief addresses an issue of even greater public importance than the constitutionality of what has become known colloquially as Obamacare, the president's health care legislation, which he rammed through Congress with what was then a Democrat majority in both houses. This "greater" issue is the integrity of the Supreme Court itself and whether or not it will adhere to and respect centuries old rules of judicial ethics, which require a judge to recuse herself when she has a conflict of interest and when to continue on the case would create even the appearance of partiality. In addition to the evidence of Justice Kagan's conflict of interest as set forth and detailed in FW's amicus brief, new evidence has arisen as reflected in a recent report on Fox News. See <http://video.foxnews.com/v/1416532308001>. This new evidence shows that while

Solicitor General of the Obama Justice Department she advocated in favor of Obamacare in another case. This act constitutes not only a conflict of interest, but creates more than the appearance of partiality, for which she must recuse herself or be disqualified by the Court.

3. If the Supreme Court does not adhere to accepted rules of judicial ethics in this case, and others, it will lose credibility as the "People's Supreme Court," and indeed its ultimate decision herein will be forever held illegitimate and tainted by judicial misconduct. This is why the issue of Justice Kagan's recusal or disqualification is even more important than the underlying issues of this Obamacare case itself. It will have a lasting effect on the integrity of the Supreme Court and how Americans view their Court. Future decisions by the Court will be subject to ridicule and skepticism. Indeed, with the rise of citizens' movements like Occupy Wall Street and the Tea Party, Americans are already feeling disenfranchised from judicial and other government institutions, such that they are resorting to civil disobedience and if that does not work perhaps even revolution if things do not change. That is why an ethical and above reproach Supreme Court is so important as Americans must feel that the highest court in the land is on their side, not on the side of what they see and feel as a corrupt and entrenched Washington establishment which feathers its own nest at the expense of "We the People."

WHEREFORE, for all of these reasons, FW respectfully requests ten minutes to participate and present oral argument during the five and one half hours of oral argument now scheduled for March 28<sup>th</sup> through the 28<sup>th</sup>, 2012, before the Supreme

Court. Ten minutes can surely be made available for this crucial issue. To allow oral argument on this crucial issue would serve not only the interests of justice, but the general interests of the American people, who must have a voice before their Supreme Court. In 1776, the American people declared independence and later successfully waged revolution because the sovereign would not fully hear their concerns and grievances. To borrow from Founding Father and later President John Adams, the Supreme Court must respectfully give the American people the voice they risked their sacred honor, fortunes and lives to realize in a "free nation made of laws, not men."

Respectfully Submitted,



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January 30, 2012



## Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Request Oral Argument on Behalf of Amicus Curiae Freedom Watch has been mailed to the Supreme Court and following recipients this 30th day of January, 2012:

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