

No. 18-CV-2364

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

CITY OF COLUMBUS, *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as President of the
United States of America, *et al.*

Defendants,

**AMICUS BRIEF OF 13 COUNTIES AND CITIES IN SUPPORT OF PLAINTIFFS'
OPPOSITION TO DEFENDANTS' MOTION TO DISMISS**

OFFICE OF THE COUNTY COUNSEL
COUNTY OF SANTA CLARA

JAMES R. WILLIAMS

County Counsel

Greta S. Hansen

Douglas M. Press

Laura S. Trice

Jenny S. Lam

Lorraine Van Kirk

70 West Hedding Street

Ninth Floor, East Wing

San José, CA 95110

*Attorneys for the County of Santa Clara,
California*

Complete Listing of Amici Curiae

City of Berkeley, California

Cook County, Illinois

City of Dayton, Ohio

City of Los Angeles, California

City of Minneapolis, Minnesota

Montgomery County, Maryland

City of Oakland, California

City of Saint Paul, Minnesota

City and County of San Francisco, California

County of Santa Clara, California

City of Seattle, Washington

Shelby County, Tennessee

Travis County, Texas

TABLE OF CONTENTS

INTEREST OF AMICI CURIAE 1

ARGUMENT 2

I. THE ACA IS CRITICAL TO REDUCING LOCAL GOVERNMENTS’
UNCOMPENSATED COSTS.....2

II. THE ACA ENABLES LOCAL GOVERNMENTS TO PROVIDE OUR
COMMUNITIES WITH BETTER HEALTH CARE5

III. DEFENDANTS’ UNLAWFUL EFFORTS TO UNDO THE ACA HURT OUR
RESIDENTS, COMMUNITIES, AND HEALTH SYSTEMS8

IV. DEFENDANTS’ UNLAWFUL EFFORTS TO UNDERMINE THE ACA
LEAVE US WORSE OFF IN SOME RESPECTS THAN BEFORE THE ACA
WAS ENACTED9

CONCLUSION..... 11

TABLE OF AUTHORITIES

Cases

Cnty. Nutrition Instit. v. Butz, 420 F. Supp. 751 (D.D.C. 1976)..... 9

Nat’l Fed. Indep. Bus. v. Sebelius, 567 U.S. 519 (2012)..... 7

Statutes

42 U.S.C. § 1395dd..... 2

42 U.S.C. § 18091(2)(F) 4

42 U.S.C. §§ 254b..... 2

P.L. No. 101-381, 104 Stat. 576 (1990)..... 2

Pub. L. No. 111-148, 124 Stat. 119 (2010)..... 2

Pub. L. No. 111-152, 124 Stat. 1029 (2010)..... 2

Fla. Stat. § 395.1041 2

Cal. Welf. & Inst. Code § 17000 2, 10

Tex. Health & Safety Code Ann. § 311.022 2

Regulations

83 Fed. Reg. 16 (Apr. 17, 2018) 5

Other Authorities

Benjamin D. Sommers et al., *Mortality and Access to Care Among Adults After State Medicaid Expansions*, 367 New Eng. J. Med. (2012)..... 8

Benjamin T. Squire et al., *At-Risk Populations and the Critically Ill Rely Disproportionately on Ambulance Transport to Emergency Departments*, 20 Annals of Emergency Med. (2010) 4

Cal. Ass’n of Pub. Hosps., *Impact of Medi-Cal Expansion: Alameda Health System* (2017) 6

Cal. Ass’n of Pub. Hosps.,
Impact of Medi-Cal Expansion: Arrowhead Regional Medical Center (2017) 6

Cal. Ass’n of Pub. Hosps.,
Impact of Medi-Cal Expansion: Contra Costa Health Services (2017)..... 7

Cal. Ass’n of Pub. Hosps.,
Impact of Medi-Cal Expansion: Natividad Medical Center (2017)..... 6

Cal. Ass’n of Pub. Hosps.,
Impact of Medi-Cal Expansion: San Francisco Health Network (2017)..... 6

Cal. Ass’n of Pub. Hosps.,
Impact of Medi-Cal Expansion: San Mateo Medical Center (2017) 7

Cal. Ass’n of Pub. Hosps.,
Impact of Medi-Cal Expansion: Santa Clara Valley Health & Hospital System (2017)..... 6

Cal. Ass’n of Pub. Hosps.,
Is Medi-Cal Working? Absolutely—Check the Facts (Mar. 21, 2018) 5, 7, 9

Cal. Healthcare Found.,
Locally Sourced: The Crucial Role of Counties in the Health of Californians
 (Oct. 2015) 10, 11

Cal. State Budget 2018-19 (2019) 10

Ctrs. for Disease Control & Prevention,
The Power of Prevention: Chronic Disease... the Public Health Challenge of the 21st Century
 (2009) 7

Inst. of Med. of the Nat’l Acads., *Care Without Coverage: Too Little, Too Late* (2002) 3

Inst. of Med. of the Nat’l Acads., *Hidden Costs, Value Lost: Uninsurance in America* (2003) 8

Jane B. Wishner, *How Repealing and Replacing the ACA Could Reduce Access to Mental Health
 and Substance Use Disorder Treatment and Parity Protections*, Urban Inst. (June 2017) 8

Jessica A.R. Williams & Selena E. Ortiz, *Examining Public Knowledge and Preferences for
 Adult Preventive Services Coverage*, PLOS ONE (Dec. 20, 2017) 7

Julie Rovner, *Millions More Uninsured Could Impact Health of Those with Insurance Too*,
 Kaiser Health News (July 14, 2017) 9

Larisa Antonisse, et al.,
The Effects of Medicaid Expansion Under the ACA: Updated Findings from a Literature Review, Kaiser Family Found (Mar. 28, 2018) 5

Mac Taylor, *Rethinking the 1991 Realignment*, Legislative Analyst’s Office (Oct. 15, 2018).... 10

Mark V. Pauly & Jose A. Pagan, *Spillovers and Vulnerability: The Case of Community Uninsurance*, 26 Health Affairs 1304 (2007)..... 9

Miranda Dietz et al.,
ACA Repeal in California: Who Stands to Lose?, UCLA Ctr. for Health Pol’y Res. (Dec. 2016)..... 4

Notice of Benefit and Payment Parameters for 2019, 83 Fed. Reg. 16 (Apr. 17, 2018) 5

The Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 (2010) 1

U.S. Dep’t Health & Hum. Servs., *Facing Addiction in America: The Surgeon General’s Report on Alcohol, Drugs, and Health* (Nov. 2016) 8

U.S. Gov’t Printing Office, *Public Papers of the Presidents of the United States: Barack Obama 2009* (2010) 4

INTEREST OF AMICI CURIAE¹

Amici are counties, cities, and towns located throughout the United States. Amici are politically and geographically diverse and include cities and counties of all sizes from around the country from Montgomery County, Maryland, to Minneapolis, Minnesota, to Shelby County, Tennessee, to Seattle, Washington.

As local governments, Amici are responsible—oftentimes by federal, constitutional, and statutory mandates—for protecting the health and safety of our communities. We operate law enforcement agencies and jail facilities, maintain roads and public infrastructure, provide emergency medical transportation and public health services, plan for and respond to disasters and emergencies, assist children and the elderly, and much more. We share a substantial interest in the wellbeing of our residents and the effective expenditure of their tax dollars.

Notwithstanding our diversity, we are united in our support for the Affordable Care Act (ACA).² We bear an outsized burden in caring for our uninsured residents, measurable in staggering direct costs for services we must provide, but are not paid for, and in the myriad indirect harms to our governments and our communities that flow from our residents' lack of health care coverage. By expanding access to health insurance and promoting primary and preventative health care, the ACA reduced the billions in uncompensated costs local governments bear and enabled our towns, cities, and counties to better spend taxpayer dollars on

¹ No counsel for a party authored this brief in whole or in part, and no party or counsel for a party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than amici or their counsel made a monetary contribution to this brief's preparation or submission. Counsel for all parties consented to the filing of this brief.

² The Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 (2010), *as amended*, Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029 (2010).

more effective health services and to preserve our resources for our other critical government functions. Under the ACA, we are able to better serve our communities as a whole.

Defendants' attempts to sabotage the ACA and make it fail impose extraordinary financial and human costs on Amici, leaving us worse off in some ways than we were even before the ACA was enacted. This was not Congress's dictate by statute, and the President and his officers charged with implementing the ACA should be enjoined from undermining it and from inflicting untold chaos and costs on our communities and our governments.

ARGUMENT

I. THE ACA IS CRITICAL TO REDUCING LOCAL GOVERNMENTS' UNCOMPENSATED COSTS

As local governments, Amici are obligated by both federal and state law to provide vital services to our residents and communities. The broad police powers vested in Amici, as municipal and county governments, simultaneously vest in us the responsibility to supply an array of essential services. In many jurisdictions, federal, state, and local laws codify these duties in express mandates Amici must fulfill.³ We must protect public safety, operate law enforcement agencies and correctional facilities, supply emergency medical transportation and emergency health services for the indigent, maintain roadways and public infrastructure, assist

³ See, e.g., Emergency Medical Treatment and Active Labor Act (EMTALA), 42 U.S.C. § 1395dd (requiring hospitals with dedicated emergency departments to screen and often stabilize and treat patients who need care irrespective of their ability to pay); Public Health Services Act, Section 330, 42 U.S.C. §§ 254b (requiring federally-qualified health centers to serve all residents of their communities regardless of their ability to pay); Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990, P.L. No. 101-381, 104 Stat. 576 (1990) (requiring providers to offer HIV/AIDS medications and health care services to poor patients who need these medications and services but cannot otherwise access them); Cal. Welf. & Inst. Code § 17000 (mandating that California counties provide care to people who have no other source of care); Fla. Stat. § 395.1041(3)(f) (requiring that Florida hospitals provide emergency services and care to patients who need them irrespective of economic status or ability to pay); Tex. Health & Safety Code Ann. § 311.022(a), (b) (similar Texas law).

children and the elderly, and much more. In many cases, as the direct points of contact between the residents and the critical services they may need, local governments are the only entities with the ability to perform these vital public functions that are necessary for our residents to pursue full and independent lives.

Before the ACA was enacted, Amici incurred massive uncompensated costs from supplying services to our uninsured and underinsured residents. Amici are obligated to provide many health care services to our residents regardless of their ability to pay. We cannot condition emergency transportation in our ambulances, examination and treatment in our health care clinics and emergency departments, or emergent care in our safety-net hospitals on ability to pay the medical bill. Thus, prior to the ACA, when members of our communities could not cover the costs of the health care services they needed because they lacked any or adequate health insurance, our local governments strained to provide services we were responsible for offering but not compensated for supplying. We sustained still more of these costs on behalf of our communities because private practitioners regularly refused to incur them and instead turned away the poor, the uninsured, and the underinsured.

Prior to the ACA, our uninsured and underinsured residents also incurred costlier and less effective health care. Without access to the primary and preventive care, prescription drugs, and early diagnosis and treatment that health insurance enables, our residents were more likely seek care later in the disease process, when they were sicker and more costly to treat, and would access the health care system through more costly interfaces such as through ambulance calls or visits to the emergency room.⁴ They were also less likely to receive the type of early

⁴ *E.g.*, Inst. of Med. of the Nat'l Acads., *Care Without Coverage: Too Little, Too Late* (2002), <http://tinyurl.com/yyttlqhm>.

interventions and treatments for substance use and mental health conditions that reduce the need for other high-cost government services, such as our jails, law enforcement resources, and safety-net social services.

Amici bear massive, but avoidable, direct costs from the less effective, less timely, and more expensive care people seek when they cannot afford health insurance. For example, for just a single uninsured resident with an ear infection, the County of Santa Clara incurs hundreds more when treatment is provided not in its clinics but in its emergency department, on which the uninsured disproportionately rely.⁵ Such unnecessary costs were multiplied across Amici's millions of uninsured residents in their encounters with our public health systems, and these costs often forced us to divert finite funds from our other critical functions or to further tax the public.

The ACA was enacted in part to address the astronomical "cost of providing uncompensated care to the uninsured ... \$43,000,000,000 in 2008" alone,⁶ and the "straining budgets across government" that these costs create.⁷ The ACA greatly reduced, but did not completely eliminate, the uncompensated costs Amici bear. For example, although the uninsured rate was more than halved in the County of Santa Clara after implementation of the ACA,⁸ the County's safety net hospital still incurred over \$131 million in uncompensated costs from providing critical health care services to its remaining uninsured and underinsured residents

⁵ Benjamin T. Squire et al., *At-Risk Populations and the Critically Ill Rely Disproportionately on Ambulance Transport to Emergency Departments*, 20 *Annals of Emergency Med.* 1, 6 (2010).

⁶ 42 U.S.C. § 18091(2)(F).

⁷ U.S. Gov't Printing Office, *Public Papers of the Presidents of the United States: Barack Obama 2009* at 127 (2010), <http://tinyurl.com/y6hv9wvj>.

⁸ Miranda Dietz et al., *ACA Repeal in California: Who Stands to Lose?*, *UCLA Ctr. for Health Pol'y Res.* 7 (Dec. 2016), <https://perma.cc/K77T-S6Q8>.

in fiscal year 2017, even while operating in an extremely efficient cost landscape.⁹ But by helping millions of Americans secure health insurance and thereby access more effective and efficient health care, the ACA did dramatically lessen the direct uncompensated care burden borne by Amici and our public health systems: it critically reduced the financial strain on our towns, cities, and counties.¹⁰

II. THE ACA ENABLES LOCAL GOVERNMENTS TO PROVIDE OUR COMMUNITIES WITH BETTER HEALTH CARE

The ACA also enables Amici to provide our communities with better health outcomes at significantly lower public expense. By expanding access to health insurance and reducing Amici's uncompensated care costs, the ACA has allowed many Amici to deliver more of the prevention and primary care services that Americans want their governments to provide and that produce better health outcomes, earlier, in more appropriate settings, and at lesser expense. These major improvements were possible because of the decreased uncompensated care cost and increased health insurance coverage landscape created by the ACA—effects that Defendants' 2019 Rule and other executive actions aim to undercut.¹¹

With the support of the ACA, many of Amici's public health systems piloted dramatic system improvements for patients with chronic diseases—the persistent, prevalent, but preventable conditions such as diabetes, certain heart diseases, and obesity that are among the most common, costly, and deadly of America's health problems. For example, due to the ACA,

⁹ Cal. Ass'n of Pub. Hosps., *Is Medi-Cal Working? Absolutely—Check the Facts 2* (Mar. 21, 2018), <https://perma.cc/62PL-57JV>.

¹⁰ See, e.g., Larisa Antonisse, et al., *The Effects of Medicaid Expansion Under the ACA: Updated Findings from a Literature Review*, Kaiser Family Found. 8-11 (Mar. 28, 2018), <https://perma.cc/GU93-U9DE>.

¹¹ See Notice of Benefit and Payment Parameters for 2019, 83 Fed. Reg. 16,930 (Apr. 17, 2018).

the County of Santa Clara was able to pilot a chronic conditions care management program that decreased participants' emergency department visits by more than fourfold.¹² Major gains like this in quality of care and quality of life were made possible because of the ACA, and they are mirrored by similar gains in many public health care systems. Because of the ACA, other public health care systems were able to increase by 50% the number of diabetes patients with self-management goals,¹³ reduce emergency department visits by 18% for complex care management patients,¹⁴ cut by more than fifteen times patients' rates of uncontrolled diabetes,¹⁵ and nearly halve the readmission rate of patients at high risk of heart failure.¹⁶

Supported by the ACA, Amici's public health systems also effectively expanded both insured and uninsured people's access to primary and preventative care. For example, the County of Santa Clara was able to slash patients' wait times for primary care appointments from 53 days to fewer than 48 hours.¹⁷ Other Amici similarly rolled out improvements to ensure their residents can feasibly secure timely and needed health care, such as co-locating behavioral health services at clinics so that patients with positive screens for depression can now be seen by a

¹² Cal. Ass'n of Pub. Hosps., *Impact of Medi-Cal Expansion: Santa Clara Valley Health & Hospital System at 1* (2017), <https://perma.cc/XN93-EKAP>.

¹³ Cal. Ass'n of Pub. Hosps., *Impact of Medi-Cal Expansion: Arrowhead Regional Medical Center* (2017), <https://perma.cc/J9HN-T6KB>.

¹⁴ Cal. Ass'n of Pub. Hosps., *Impact of Medi-Cal Expansion: Alameda Health System* (2017), <https://perma.cc/BD87-8EJ4>.

¹⁵ Cal. Ass'n of Pub. Hosps., *Impact of Medi-Cal Expansion: Natividad Medical Center* (2017), <https://perma.cc/ADU7-6G5P>.

¹⁶ Cal. Ass'n of Pub. Hosps., *Impact of Medi-Cal Expansion: San Francisco Health Network* (2017), <https://perma.cc/5E5N-CVLT>.

¹⁷ Cal. Ass'n of Pub. Hosps., *Impact of Medi-Cal Expansion: Santa Clara Valley Health & Hospital System at 1* (2017), <https://perma.cc/XN93-EKAP>.

specialist in less than an hour,¹⁸ or creating new databases to match people to the care providers who are most convenient to them.¹⁹

More than four in five Americans favor public funding for chronic disease prevention.²⁰ Americans also overwhelmingly favor free preventative health services.²¹ The ACA reflects these values and has enabled Amici to effectively invest in much needed and desired preventative and primary care programs,²² and to do so at far less cost than the care provided through emergency treatment, or even than many private health care providers.²³ Amici provided these efficient, high-value Medicaid services while earning accolades for their care, with, for example, more than half of California's public health care systems performing within the top 10% in the country across multiple health care quality metrics.²⁴

The ACA's expansion of insurance access and support for delivery system reforms fueled these health and fiscal gains. Defendants' efforts to sabotage the ACA aim to unravel these dramatic improvements, and by undermining the insurance coverage gains created by the ACA

¹⁸ Cal. Ass'n of Pub. Hosps., *Impact of Medi-Cal Expansion: San Mateo Medical Center* (2017), <https://perma.cc/678E-2FAX>.

¹⁹ Cal. Ass'n of Pub. Hosps., *Impact of Medi-Cal Expansion: Contra Costa Health Services* (2017), <https://perma.cc/8U9Q-TXTT>.

²⁰ Ctrs. for Disease Control & Prevention, *The Power of Prevention: Chronic Disease ... the Public Health Challenge of the 21st Century* 1 (2009), <https://perma.cc/LA45-YV77>.

²¹ Jessica A.R. Williams & Selena E. Ortiz, *Examining Public Knowledge and Preferences for Adult Preventive Services Coverage*, PLOS ONE 11 (Dec. 20, 2017), <https://tinyurl.com/yxclarcv>.

²² See generally *Nat'l Fed. Indep. Bus. v. Sebelius*, 567 U.S. 519, 592-96 (2012) (Ginsburg, J., concurring).

²³ See, e.g., Cal. Ass'n of Pub. Hosps., *Is Medi-Cal Working? Absolutely—Check the Facts* 2 (Mar. 21, 2018), <https://perma.cc/8CCD-LKBN>.

²⁴ *Id.*

and thereby changing the very services people seek and receive, would force Amici to spend more taxpayer money only to obtain poorer health outcomes.

III. DEFENDANTS' UNLAWFUL EFFORTS TO UNDO THE ACA HURT OUR RESIDENTS, COMMUNITIES, AND HEALTH SYSTEMS

Defendants' unlawful efforts to undermine the ACA and to make health insurance more expensive, less accessible, and less attractive harm our communities. The financial and human costs of a loss of health insurance are profound, wide-ranging, and long-term. People without health insurance suffer demonstrably worse health outcomes. They are more likely to contend with financial strain and their children are more likely to miss developmental milestones;²⁵ overall, their lives are shorter and less healthy.²⁶ Loss of insurance does not only cut off people's access to medical care, but also to mental health care and substance use services,²⁷ making it less likely people receive the early interventions and treatments that are widely acknowledged to be most effective and least expensive.²⁸

These consequences hurt our communities. The harms cascade and multiply, creating everything from more sick days that harm employers to diminished educational achievement, lost jobs and tax revenue, and greater need for safety-net supports. In numbers, in California alone, by 2027, failure of the ACA like the kind that Defendants seek, would likely mean

²⁵ Inst. of Med. of the Nat'l Acads., *Hidden Costs, Value Lost: Uninsurance in America* 6-7, 69-76 (2003).

²⁶ *Id.* 3-4; Benjamin D. Sommers et al., *Mortality and Access to Care Among Adults After State Medicaid Expansions*, 367 *New Eng. J. Med.* 1025 (2012).

²⁷ Jane B. Wishner, *How Repealing and Replacing the ACA Could Reduce Access to Mental Health and Substance Use Disorder Treatment and Parity Protections*, *Urban Inst.* 3 (June 2017), <https://tinyurl.com/yyfltjee>.

²⁸ U.S. Dep't Health & Hum. Servs., *Facing Addiction in America: The Surgeon General's Report on Alcohol, Drugs, and Health* 3-14, 4-9 (Nov. 2016), <https://perma.cc/UWK8-69JB>.

550,000 fewer jobs, \$60.4 billion less in annual GDP, and \$4.4 billion in lost state and local tax revenue.²⁹

All of our residents are injured when members of the community lack health insurance.³⁰ When our communities are home to a sizable uninsured population, everyone's health care suffers. Medical providers strain to stay open and those that do report they deliver lower quality care.³¹ With many uninsured people in our midst, all of our residents are less satisfied with their health care, less able to access it, and more likely to have unmet medical needs, with especially concerning consequences for critical capital-intensive health services like mammography screenings, trauma care, and neonatal intensive care.³² These harms cannot be undone after the fact. "No possible way exists to compensate in the future for health problems triggered in the past."³³

IV. DEFENDANTS' UNLAWFUL EFFORTS TO UNDERMINE THE ACA LEAVE US WORSE OFF IN SOME RESPECTS THAN BEFORE THE ACA WAS ENACTED

Defendants' campaign to sabotage the ACA and sow uncertainty about it leave Amici and our residents worse off in some respects than before the ACA was enacted. Simply put, Defendants' actions impose catastrophic costs, chaos, and disruption on Amici.

²⁹ Cal. Ass'n of Pub. Hosps., *Is Medi-Cal Working? Absolutely—Check the Facts* at 1 (Mar. 21, 2018), <https://perma.cc/3N3A-K7VE>.

³⁰ Julie Rovner, *Millions More Uninsured Could Impact Health of Those with Insurance Too*, Kaiser Health News (July 14, 2017), <https://perma.cc/FP3A-2A8P>.

³¹ Mark V. Pauly & Jose A. Pagan, *Spillovers and Vulnerability: The Case of Community Uninsurance*, 26 *Health Affairs* 1304, 1309-10 (2007), <https://tinyurl.com/y4gz663s>.

³² *Id.* at 1307-11.

³³ *Cmty. Nutrition Instit. v. Butz*, 420 F. Supp. 751, 757 (D.D.C. 1976).

Much of the health care funding that local governments relied on and that was available before the ACA was enacted has been repurposed or no longer exists. Amici projected our budgets and structured our programs to efficiently leverage federal and state health care funding based on the core expectation that the ACA would continue. The highly regulated, non-fungible funds we would have used to provide indigent care have been obligated elsewhere and cannot simply be redeployed. In California, for example, although counties have been obligated to provide health services to their indigent residents for over a century,³⁴ due to the ACA dramatically reducing the ranks of the uninsured, counties now receive only a portion of the state money they have long relied on to fund these services, and that money is largely obligated to cover state social services instead.³⁵ The laws that created this change are “labyrinthine”—both the product and source of highly-negotiate, multi-year, multi-entity obligations that cannot be unwound without great cost and chaos.³⁶ Our counties do not have the money we need to care for many more uninsured.

Political and practical realities mean that many towns, cities, and counties cannot revert to providing the same services to the uninsured as they did before the ACA. Many of Amici’s public health clinics, such as Orange County’s Ryan White HIV/AIDS Clinic, dramatically decreased their services because the ACA enabled newly insured residents to access care in more traditional primary care settings so that they no longer need services from clinics designed to

³⁴ Cal. Welf. & Inst. Code, § 17000.

³⁵ Cal. State Budget 2018-19 at 45-46 (2019), <https://perma.cc/BJN9-EEFU>; see Cal. Healthcare Found., *Locally Sourced: The Crucial Role of Counties in the Health of Californians* 3-4 (Oct. 2015), <https://perma.cc/T4FD-W7UD>.

³⁶ Mac Taylor, *Rethinking the 1991 Realignment*, Legislative Analyst’s Office 20 (Oct. 15, 2018), <https://perma.cc/Z9GE-SF86>.

serve the uninsured and underinsured.³⁷ Other parts of our safety-net systems shuttered in response to the ACA as well. Amici that previously operated health centers to serve their underserved rural or urban residents closed these centers after the ACA's initial insurance changes made it viable for private providers to open or expand and provide health care to these populations instead. Relying on the changed health care landscape Congress created by the ACA, many Amici cannot restart their health centers without significant disruption and costs and considerable time. Relying on the ACA that Congress enacted, Amici made substantial commitments—in physical infrastructure, budgets, human capital, research, services, outreach, public education, electronic systems, and much more. These cannot be undone without tremendous cost, an intervening period of chaos, and, in the meantime and beyond, great harm to the health and wellbeing of our residents.

CONCLUSION

Amici bear massive uncompensated costs from our underinsured and uninsured residents, who disproportionately rely on Amici's publicly funded health systems. The ACA overwhelmingly reduced Amici's uncompensated costs and the toll these costs exact on our communities, the health of all of our residents, and our very ability to govern. It enabled us to supply the more effective, more efficient, and less costly health care that Americans want and need. Defendants' efforts to make the ACA fail aim to undo these gains and leave many Amici and our residents worse off, and with fewer and lower quality options for health care.

These are the considerations that ultimately led Congress to abandon a repeal, and it is improper

///

³⁷ Cal. Healthcare Found., *Locally Sourced: The Crucial Role of Counties in the Health of Californians* 27 (Oct. 2015), <https://perma.cc/M3QL-TFU5>.

for the President and his officers—charged with upholding the law—to undermine it and to unilaterally effect profound public harm to our nation’s health and health care system.

Dated: June 7, 2019

Respectfully submitted,

MARC P. HANSEN
County Attorney
Federal Bar ID 26524

By: /s/ Edward B. Lattner
Edward B. Lattner
Federal Bar ID 03871
101 Monroe Street, Third Floor
Executive Office Building
Rockville, Maryland 20850
Edward.lattner@montgomerycountymd.gov
Telephone: (240) 777-6700
*Attorneys for Montgomery County,
Maryland*

Dated: June 7, 2019

JAMES R. WILLIAMS
County Counsel, County of Santa Clara

By: /s/ Lorraine Van Kirk

Greta S. Hansen
Douglas M. Press
Laura S. Trice
Jenny S. Lam
Lorraine Van Kirk
70 West Hedding Street
Ninth Floor, East Wing
San José, CA 95110
*Attorneys for the County of Santa Clara,
California*

(Additional Counsel Listed on Next Page)

Additional Counsel for Amici Curiae

Farimah Faiz Brown
City Attorney
2180 Milvia Street, Fourth Floor
Berkeley, CA 94074
Attorney for the City of Berkeley, California

Kimberly M. Foxx
State's Attorney
69 West Washington Street, 32nd Floor
Chicago, Illinois 60602
Attorney for Cook County, Illinois

Barbara J. Doseck
City Attorney
City of Dayton, Ohio
101 W. Third St.
Dayton, Ohio 45419
Attorney for the City of Dayton, Ohio

Michael N. Feuer
City Attorney
200 North Main Street, City Hall East Suite 800
Los Angeles, CA 90012
Attorney for the City of Los Angeles, California

Susan L. Segal
City Attorney
350 S. Fifth Street, Room 210
Minneapolis, MN 55415
Attorney for the City of Minneapolis, Minnesota

Barbara J. Parker
City Attorney
One Frank Ogawa Plaza, Sixth Floor
Oakland, CA 94612
Attorney for the City of Oakland, California

Lyndsey M. Olson
City Attorney
400 City Hall and Court House
15 West Kellogg Boulevard
Saint Paul, Minnesota 55102
Attorney for the City of Saint Paul, Minnesota

Dennis J. Herrera
City Attorney
City Hall Room 234
One Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Attorney for the City and County of San Francisco, California

Peter S. Holmes
City Attorney
701 Fifth Avenue, Suite 2050
Seattle, WA 98104-7097
Attorney for the City of Seattle, Washington

John Marshall Jones
Chief Litigation Attorney,
160 North Main Street, Suite 950
Memphis, TN 38103
Attorney for Shelby County, Tennessee

David A. Escamilla
County Attorney
Annalynn Cox
P. O. Box 1748
Austin, TX 78767
Attorney for Travis County, Texas

CERTIFICATE OF SERVICE

I hereby certify that, on June 7, 2019, the foregoing document was filed with the Clerk of the Court, using the CM/ECF system, causing it to be served on all counsel of record.

Respectfully submitted,

/s/
Edward B. Lattner