



XAVIER BECERRA
Attorney General

State of California
DEPARTMENT OF JUSTICE

1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550

Public: (916) 445-9555
Telephone: (916) 210-7913
Facsimile: (916) 324-5567
E-Mail: Karli.Eisenberg@doj.ca.gov

May 24, 2019

Molly C. Dwyer
Clerk of the Court
U.S. Court of Appeals for the Ninth Circuit
95 7th Street
San Francisco, CA 94103

Re: *State of California, et al. v. Azar, et al.*
U.S. Court of Appeals for the Ninth Circuit, Case Nos. 19-15072, 19-15118, 19-15150
Oral Argument: June 6, 2019 (San Francisco)
Fed. R. App. P. 28(j)

Dear Madam Clerk:

Pursuant to Federal Rule of Appellate Procedure 28(j), the States submit this letter to bring recent and pertinent authority to the Court's attention. In *Massachusetts v. HHS*, the U.S. Court of Appeals for the First Circuit held that the Commonwealth of Massachusetts had standing to challenge the same Exemption Rules at issue in this case. 2019 WL 1950427, at *9-13 (1st Cir. May 2, 2019). The First Circuit concluded that, based on Defendants' own estimates of the exemptions' impact, there was "a substantial risk that some women in Massachusetts will lose coverage due to the regulations." *Id.* at *10-11. In turn, the First Circuit held that this loss of coverage created a "substantial risk" that the Exemption Rules would cause "imminent fiscal injury" to Massachusetts because women would rely on "state-funded contraceptive care or state-funded prenatal care for unintended pregnancies." *Id.* at *12-13. Thus, the Court vacated the district court's order granting Defendants summary judgment, and remanded so that Massachusetts could proceed on its substantive challenges to the Exemption Rules.

As the States' brief outlines, this Court has similarly concluded that the Exemption Rules will cause women to lose coverage, which will then result in economic harm to the States. *See* Answering Br. 20-21 (citing *California v. Azar*, 911 F.3d 558, 571 (9th Cir. 2018)). For these reasons and those outlined in the States' brief, the States have standing.

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Sincerely,

Xavier Becerra
Attorney General of California
Michael L. Newman
Senior Assistant Attorney General
Kathleen Boergers
Supervising Deputy Attorney General
/s Karli Eisenberg
Karli Eisenberg
Nimrod Pitsker Elias
Deputy Attorneys General
CALIFORNIA DEPARTMENT OF JUSTICE
1300 I Street, Suite 125
Sacramento, CA 94244-2550
(916) 210-7913
Karli.Eisenberg@doj.ca.gov
Attorneys for the State of California

(Counsel listing continues on next page)

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William Tong
Attorney General of Connecticut
Maura Murphy Osborne
Assistant Attorney General
Office of the Attorney General
55 Elm Street
P.O. Box 120
Hartford, CT 06141-0120
(860) 808-5020
Maura.MurphyOsborne@ct.gov
Attorneys for the State of Connecticut

Kathleen Jennings
Attorney General of Delaware
Ilona Kirshon
Deputy State Solicitor
Jessica M. Willey
David J. Lyons
Deputy Attorneys General
820 N. French St., 6th Fl.
Wilmington, DE 19801
(302) 577-8400
Jessica.Willey@delaware.gov
Attorneys for the State of Delaware

Karl A. Racine
Attorney General of the District of Columbia
Loren A. AliKhan
Solicitor General
Caroline S. Van Zile
Deputy Solicitor General
Graham E. Phillips
Assistant Attorneys General
441 4th Street, NW, Suite 630 South
Washington, D.C. 20001
(202) 724-6647
graham.phillips@dc.gov
Attorneys for the District of Columbia

Clare Connors
Attorney General of Hawaii
Erin Lau
Deputy Attorney General
465 South King St., Suite 200
Honolulu, HI 96813
(808) 587-3050
Erin.N.Law@Hawaii.gov
Attorneys for the State of Hawaii

Kwame Raoul
Attorney General of Illinois
Elizabeth Morris
Assistant Attorney General
100 West Randolph Street, 12th Floor
Chicago, IL 60601
(312) 814-3909
emorris@atg.state.il.us
Attorneys for the State of Illinois

Brian E. Frosh
Attorney General of Maryland
Steven M. Sullivan
Solicitor General
Kimberly S. Cammarata
Senior Assistant Attorney General
200 St. Paul Place
Baltimore, MD 21202
(410) 576-7038
kcammarrata@oag.state.md.us
Attorneys for the State of Maryland

Keith Ellison
Attorney General of Minnesota
Jacob Campion
Assistant Attorney General
445 Minnesota St., Suite 1100
St. Paul, MN 55101
(651) 77-1459
jacob.campion@ag.state.mn.us
*Attorney for the State of Minnesota, by and
through its Department of Human Services*

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Letitia James
Attorney General of New York
Barbara D. Underwood
Solicitor General
Lisa Landau
Bureau Chief, Health Care Bureau
Steven C. Wu
Deputy Solicitor General
Ester Murdukhayeva
Assistant Solicitor General
28 Liberty Street
New York, NY 10005
(212) 416-8000
Steven.Wu@ag.ny.gov
Attorneys for the State of New York

Joshua H. Stein
Attorney General of North Carolina
Sripriya Narasimhan
Deputy General Counsel
114 W. Edenton Street
Raleigh, NC 27603
(919) 716-6400
snarasimhan@ncdoj.gov
Attorneys for the State of North Carolina

Peter F. Neronha
Attorney General of Rhode Island
Michael W. Field
Assistant Attorney General
150 South Main Street
Providence, Rhode Island 02903
(401) 274-4400, ext. 2380
mfield@riag.ri.gov
Attorneys for the State of Rhode Island

Thomas J. Donovan, Jr.
Attorney General of Vermont
Eleanor Spottswood
Assistant Attorney General
109 State Street
Montpelier, VT 05609-1001
(802) 828-3178
eleanor.spottswood@vermont.gov
Attorneys for the State of Vermont

Mark R. Herring
Attorney General of Virginia
Toby J. Heytens
Solicitor General
Samuel T. Towell
Deputy Attorney General
Barbara Johns Building
202 N. Ninth St.
Richmond, Virginia 23212
(804) 786-6731
stowell@oag.state.va.us
Attorneys for the Commonwealth of Virginia

Robert W. Ferguson
Attorney General of Washington
Jeffrey T. Sprung
Alicia O. Young
Assistant Attorneys General
800 Fifth Ave., Suite 2000
Seattle, WA 98101
(206) 326-5492
jeff.sprung@atg.wa.gov
alicia.young@atg.wa.gov
Attorneys for the State of Washington

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CERTIFICATE OF SERVICE

I certify that on May 24, 2019, I electronically filed the foregoing document with the Clerk of the Court of the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. I certify that all other participants in this case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated: May 24, 2019

/s Karli Eisenberg

KAE:

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