



DEPARTMENT OF THE ATTORNEY GENERAL

DAVID Y. IGE
GOVERNOR

CLARE E. CONNORS
ATTORNEY GENERAL

For Immediate Release
March 25, 2019

News Release 2019-10

Hawaii Attorney General Joins Coalition of 21 Attorneys General in Filing Opening Brief in *Texas v. US*

Honolulu – Attorney General Clare E. Connors, joined a coalition of 21 attorneys general, led by California Attorney General Becerra, in filing an opening brief in *Texas v. U.S.*, defending the Affordable Care Act (ACA) and the healthcare of tens of millions of Americans. Today’s brief, filed in the U.S. Court of Appeals for the Fifth Circuit, argues that every provision of the ACA remains valid. It also details the harm that declaring the ACA invalid would have on the tens of millions of people who rely on it for access to high-quality, affordable healthcare, as well as the broader damage that it would do to the nation’s healthcare system.

“The plaintiffs’ position with respect to the unconstitutionality of the minimum coverage provision is without merit,” said Attorney General Clare E. Connors. “Moreover, using this provision to bring down the entire Affordable Care Act will have adverse consequences for the health and welfare of the citizens of our state.”

The plaintiffs, two individuals and 18 States led by Texas, filed this lawsuit in February 2018, challenging one provision of the Affordable Care Act—the requirement that individuals maintain health insurance or pay a tax. Texas’ lawsuit came after Congress reduced that tax to zero dollars December 2017. Opponents of the ACA had attempted and failed to repeal the ACA over 70 times since its instatement. The plaintiffs argued that this change made the minimum coverage provision unconstitutional. They further argued that the rest of the ACA could not be “severed” from that one provision, so the entire Act must be struck down.

On December 14, 2018, Judge Reed O’Connor of the Northern District of Texas issued his decision agreeing with the plaintiffs. In response, Attorney General Becerra and his coalition of Attorneys General filed a motion to stay the effect of

that decision and to expedite resolution of this case. The District Court granted that motion on December 30, 2018. On January 3, 2019, the coalition of Attorneys General continued their legal defense in the ACA and formally filed a notice of appeal, challenging the District Court's December 14 opinion in the Fifth Circuit.

Today's filing continues the legal defense of the ACA. In their brief, the Attorneys General argue that the plaintiffs do not have standing to challenge the minimum coverage provision, because the individual plaintiffs are not injured by a provision that now offers a lawful choice between buying insurance and paying a zero-dollar tax. Attorneys General further argue that the state plaintiffs also lack standing, because there is no evidence that the amended provision will require them to spend more money. Lastly, the District Court wrongly concluded that the minimum coverage provision was unconstitutional, and even if it were there would be no legal basis for also declaring the rest of the ACA invalid—including its provisions expanding Medicaid, reforming Medicare, and providing protections to individuals with preexisting health conditions.

The brief also highlights the consequences of upholding the district court's decision, which would wreak havoc on the entire American healthcare system and risk lives in every state. If affirmed, the district court's decision would affect nearly every American, including:

- 133 million Americans, including 17 million kids, with preexisting health conditions.
- Young adults under 26 years of age, who are covered under a parent's health plan.
- More than 12 million Americans who received coverage through Medicaid expansion.
- 12 million seniors who receive a Medicare benefit to afford prescription drugs.
- Working families who rely on tax credits and employer-sponsored plans to afford insurance.

An electronic copy of the opening brief can be found [here](#).

###

For more information, contact:

Krishna F. Jayaram
Special Assistant to the Attorney General
Department of the Attorney General
(808) 586-1284
krishna.f.jayaram@hawaii.gov