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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,

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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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