

APPEAL NOS. 19-17213 & 19-17214

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

CITY AND COUNTY OF SAN FRANCISCO, et al.,
Plaintiffs-Appellees,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY, et al.,
Defendants-Appellants.

STATE OF CALIFORNIA, et al.,
Plaintiffs-Appellees,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY, et al.,
Defendants-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
THE HONORABLE PHYLLIS J. HAMILTON, CHIEF JUDGE
CASE NOS. 4:19-CV-04717-PJH & 4:19-CV-04975-PJH

**BRIEF OF AMICI CURIAE THE CALIFORNIA STATE ASSOCIATION OF
COUNTIES AND 24 COUNTIES, CITIES, AND MUNICIPALITIES
IN SUPPORT OF PLAINTIFFS-APPELLEES AND AFFIRMANCE**

BARBARA J. PARKER, SBN 069722
Oakland City Attorney
MARIA BEE, SBN 167716
ERIN BERNSTEIN, SBN 231539
MALIA MCPHERSON, SBN 313918
CAROLINE WILSON, SBN 322389
NICHOLAS DEFUESTA, SBN 327777
One Frank H. Ogawa Plaza, 6th Floor
Oakland, California 94612
Telephone: (510) 238-3601
Email: ndefiesta@oaklandcityattorney.org
*Attorneys for Amicus Curiae
CITY OF OAKLAND, CA*

MICHAEL N. FEUER, SBN 111529
Los Angeles City Attorney
KATHLEEN A. KENEALY, SBN 212289
MIKE DUNDAS, SBN 226930
DANIELLE L. GOLDSTEIN, SBN 257486
OFFICE OF THE LOS ANGELES CITY ATTORNEY
200 North Spring Street, 14th Floor
Los Angeles, CA 90012
Telephone: (213) 978-1868
Email: danielle.goldstein@lacity.org
*Attorneys for Amicus Curiae
CITY OF LOS ANGELES, CA*

VINCE RYAN
Harris County Attorney
ROBERT HAZELTINE-SHEDD
1019 Congress
Houston, Texas 77002
Telephone: (713) 274-5101
Email: vince.ryan@cao.hctx.net

*Attorneys for Amicus Curiae
HARRIS COUNTY, TX*

MARGARET L. CARTER
DANIEL R. SUVOR
O'MELVENY & MYERS LLP
400 South Hope Street, 18th Floor
Los Angeles, California 90071
TELEPHONE: (213) 430 6000
FACSIMILE: (213) 430 6407

*Attorneys for Amicus Curiae
COUNTY OF LOS ANGELES, CA*

LESLIE J. GIRARD
County Counsel
WILLIAM M. LITT
Deputy County Counsel
ANNE K. BRERETON
Deputy County Counsel
MARINA S. PANTCHENKO
Deputy County Counsel
168 West Alisal Street, 3rd Floor
Salinas, CA 93901

*Attorneys for the Amicus Curiae
COUNTY OF MONTEREY, CA*

(Additional counsel listed in Appendix)

RULE 26.1 CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1, amicus curiae the California State Association of Counties represents that it is a non-profit mutual benefit corporation, which does not offer stock and which is not a subsidiary or affiliate of any publicly owned corporation. Remaining amici curiae are governmental entities for whom no corporate disclosure is required.

Dated: January 23, 2020

By: /s/ Danielle L. Goldstein
 Danielle L. Goldstein

*Attorney for Amicus Curiae Los
Angeles, CA*

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INTEREST OF AMICI CURIAE AND SUMMARY OF ARGUMENT¹

The Cities of Los Angeles and Oakland, California, together with the Counties of Harris, Texas; Los Angeles, California; and Monterey, California; the California State Association of Counties; and 19 cities and counties from nearly every region of the nation (“Amici”), submit this brief in support of Plaintiffs-Appellees and the injunction issued by the District Court in this case.

Collectively, Amici represent nearly 27 million people, including millions of residents who are immigrants or the children of immigrants. Amici have primary responsibility for promoting and protecting the health and welfare of their communities. *See, e.g., Hillsborough Cty., Fla. v. Automated Med. Labs., Inc.*, 471 U.S. 707, 719 (1985) (residents’ health and safety are “primarily, and historically, matters of local concern”). From hospitals to housing, Amici operate many of the basic governmental programs that sustain the health and welfare of American communities. Amici run safety-net hospitals, clinics, and emergency services. Amici also provide housing support to blunt the impact of the nation’s accelerating housing crisis, food assistance to provide a boost to needy families, and foster care

¹ All parties have consented to the filing of this brief. No party’s counsel authored this brief in whole or in part, and no person or entity other than Amici or their counsel made a monetary contribution intended to fund the preparation or submission of this brief. *See Fed. R. App. P. 29(a)(4)(E)*.

services to protect children. As a result, Amici are the primary backstop against the interconnected needs of U.S. communities.

This is a matter of exceptional importance. The Final Rule on the public charge ground of inadmissibility² (the “Rule”) challenged in this action would upend many of Amici’s critical services and harm entire communities. If this Court does not affirm the District Court’s preliminary injunction order, Amici and their communities will suffer grave harm.³

Amici submit this brief to provide this Court with additional detail regarding the scope and nature of the likely outcomes to Amici’s communities and budgets if the Rule is permitted to take effect. Simply put, the Rule will make Amici’s populations sicker and poorer, increase homelessness, and remove work supports that allow working Americans to achieve a better life for themselves, their children, and their communit. The District Court below correctly ruled that an injunction is required in this case to stem the “predictable, likely, and imminent”

² Inadmissibility on Public Charge Grounds, 84 Fed. Reg. 41,292 (Aug. 14, 2019) (to be codified at 8 C.F.R. pts. 103, 212-14, 245, & 248).

³ Currently, the Rule is enjoined pursuant to the Southern District of New York’s nationwide injunction order in *New York v. DHS*, No. 19-CV-7777 (GBD), 2019 WL 5100372 (S.D.N.Y. Oct. 11, 2019). On January 8, 2020, the Second Circuit denied the government’s motion to stay that district court’s injunction pending appeal. That injunction could, of course, be stayed, lifted, or modified by the Second Circuit.

injury to states and local governments like Amici, and to promote the health and wellbeing of the people who call their jurisdictions home. ER 82.

ARGUMENT

The public benefits at issue in this Rule empower individuals and strengthen communities. They enable low-income individuals to attain and maintain self-sufficiency,⁴ provide a strong multiplier for economic growth,⁵ and increase access to health care.⁶ Low-wage workers often need a small boost to achieve self-sufficiency; in many communities where even full-time minimum wage jobs cannot support a family's basic needs, public benefits are the lifeline to stable housing, economic resiliency, and ultimate self-sufficiency.

Conversely, reductions in public benefit availability inflict harms not only on the individuals who rely on them, but on the communities that benefit from those individuals' contributions and the local governments charged with their care. Many individuals will avoid benefits because they do not want to jeopardize their

⁴ See, e.g., Cal. Pol'y Lab, *Strengthening the Social Safety Net and Health Equity*, <https://perma.cc/HSF3-TSNT>.

⁵ For instance, one set of studies found "every \$1 invested in public health in California resulted in \$67 to \$88 of benefits to society." J. Mac McCullough, Academy Health, *The Return on Investment of Public Health System Spending* (2018), <https://perma.cc/AD7H-9L4V>.

⁶ Hamutal Bernstein et al., Urban Inst., *Safety Net Access in the Context of the Public Charge Rule 17* (Aug. 2019), <https://perma.cc/PY62-4PLG>.

immigration status, but their needs will remain the same. The Rule effectively forces local governments to step in and redirect their own resources to support this population in a less efficient and robust manner. If it is allowed to go into effect, the Rule will charge Amici with filling the gaps and remedying the cumulative effects created by immigrant public benefit withdrawal.

I. THE RULE WILL CAUSE—AND IS ALREADY CAUSING—IMMIGRANTS TO CHOOSE IMMIGRATION STATUS OVER CRITICAL SERVICES.

The Rule is designed to force immigrants to choose between accessing basic governmental support and the ability to attain legal status. While immigrants generally increase economic output and have a more-positive fiscal impact on the nation than native-born Americans, in the short term, some immigrants and their children benefit from receiving support on the way to self-sufficiency.⁷ Under the Rule, accepting support can mean loss or denial of legal status, which robs Amici’s jurisdictions of immigrants’ contributions. DHS itself recognizes that immigrants will choose legal status over these critical supports.⁸

As the District Court found, this is not a speculative harm, nor are its effects

⁷ Ryan Nunn et al., Brookings Inst., Hamilton Project, *A Dozen Facts about Immigration* 13 (Oct. 2018), <https://perma.cc/DK6F-TTQL>.

⁸ *See, e.g.*, Inadmissibility on Public Charge Grounds, 84 Fed. Reg. at 41,312-13 (“DHS acknowledges that individuals subject to this rule may decline to enroll in, or may choose to disenroll from, public benefits for which they may be eligible . . . in order to avoid negative consequences as a result of this final rule.”)

primarily financial. ER 78-83. Rather, since the Administration announced the Rule, members of Amici’s immigrant communities are already making alarming trade-offs. The comments and data submitted to DHS and Amici’s own experience suggest that the “chilling effect” of the Rule in Amici’s jurisdictions is already beginning, will be severe, and will extend to programs and individuals that are not covered by the Rule.⁹

For example, from the Los Angeles Care Health Plan (LA Care), the nation’s largest public health plan, to the Harris County Public Hospital System, Amici’s partners report calls from members requesting information on how to disenroll from health care programs as well as actual disenrollement.¹⁰ LA Care anticipates that as many as 2.4 million individuals in Los Angeles County alone may withdraw from public health care.¹¹ Nationwide, approximately 13.5 million enrollees in Medicaid and the Child Health Insurance Program, including 7.6 million children, live with a noncitizen or are noncitizens themselves. They may

⁹ While many comments and studies studying the potential impact of the rule were submitted and conducted, respectively, before the Rule was promulgated, they highlight the predictable effects of the Rule change.

¹⁰ John Baackes, L.A. Care Health Plan, Comment Letter on Proposed Rule *Inadmissibility on Public Charge Grounds* at 2 (Dec. 10, 2018), Docket No. USCIS-2010-0012-36667; George V. Masi, Harris Health System, Comment Letter on Proposed Rule *Inadmissibility on Public Charge Grounds* at 2 (Dec. 3, 2018), Docket No. USCIS-2010-0012-33297.

¹¹ *Id.*

forgo access to life-saving health care as a result of the Rule.¹²

In addition to health care, many immigrants and their families are likely to disenroll from food assistance programs like the Supplemental Nutrition Assistance Program (“SNAP”). A recent study suggests that up to 2.7 million U.S. citizen children could lose SNAP access as a result of the policy change.¹³

Community partners in Oakland have noticed that immigrant parents are afraid to access benefits like CalFresh for their U.S. citizen children.¹⁴

Moreover, the Rule’s impact will extend far beyond those individuals and services who are targeted.¹⁵ Since the Rule was published, immigrant service providers have reported that it has “felt like a monumental task” to “convinc[e]

¹² Kaiser Family Found., *Changes to “Public Charge” Inadmissibility Rule: Implications for Health and Health Coverage* (Aug. 12, 2019), <https://perma.cc/A2LD-23SG>.

¹³ Jennifer Laird et al., *Forgoing Food Assistance out of Fear: Simulating the Child Poverty Impact of a Making SNAP a Legal Liability for Immigrants*, 5 *Socius* 1, 5 (2019), <https://perma.cc/QT7U-6VV3>.

¹⁴ East Bay Community Law Center, Comment Letter on Proposed Rule *Inadmissibility on Public Charge Grounds* at 8-9 (Dec. 10, 2018), Docket No. USCIS-2010-0012-52784.

¹⁵ *See, e.g.*, *Inadmissibility on Public Charge Grounds*, 84 Fed. Reg. at 41,313 (“DHS appreciates the potential effects of confusion regarding the rule’s scope and effect.”).

parents they don't have to opt out of benefits for their children.”¹⁶ Amici have also seen reports of residents declining to access other important services that are not covered under the Rule, including preventative and prenatal care.¹⁷ Likewise, community partners have reported declines in housing-related services paid for entirely by the County of Los Angeles.¹⁸

The Rule will also reduce enrollment in school meal and other programs. Current policy automatically enrolls students whose families receive SNAP benefits in the federal free and reduced-price school meal program.¹⁹ Thus, even though school meal programs are not covered by the Rule, children in immigrant

¹⁶ Leila Miller, *Trump Administration's 'Public Charge' Rule Has Chilling Effect on Benefits of Immigrants' Children*, L.A. Times (Sept. 3, 2019), <https://perma.cc/FC5C-YCG4>.

¹⁷ Helen Branswell, *Federal Rules Threaten to Discourage Undocumented Immigrants from Vaccinating Children*, STAT News (Aug. 26, 2019), <https://perma.cc/KW5N-W5E8>; Steven Nish, Los Angeles Best Babies Network, Comment Letter on Proposed Rule *Inadmissibility on Public Charge Grounds* (Dec. 9, 2018), Docket No. USCIS-2010-0012-42481; Minneapolis, MN Mayor Jacob Frey, Comment Letter on Proposed Rule *Inadmissibility on Public Charge Grounds* at 3 (Dec. 7, 2018), Docket No. USCIS-2010-0012-29261.

¹⁸ Diego Cartagena, Bet Tzedek Legal Services, Comment Letter on Proposed Rule *Inadmissibility on Public Charge Grounds* at 3-4 (Dec. 9, 2018), Docket No. USCIS-2010-0012-52651.

¹⁹ Valerie Strauss, *Six Ways Trump's New 'Public Benefits' Immigration Policies Could Hurt Children and Schools*, Wash. Post (Aug. 23, 2019), <https://perma.cc/URJ9-S6TC?type=image>.

families who avoid SNAP are less likely to receive school meal programs as well.²⁰

II. THE RULE WILL CAUSE SIGNIFICANT, IRREPARABLE HARM TO LOCAL JURISDICTIONS BY CUTTING VITAL HOUSING, HEALTH CARE, AND NUTRITION SUPPORTS.

If this Court permits the Rule to go into effect, local jurisdictions will suffer immense harm to the well-being of both their communities and their balance sheets. DHS itself estimated that individuals who disenroll from public assistance would lose benefits amounting to over \$100 million annually.²¹ Localities, which are responsible for the public health, housing, and nutrition of their residents, will be forced to fill this funding gap and grapple with the compounding consequences of the Rule's chilling effects. This challenge is even greater for localities, like California's counties, that manage public hospitals and will suffer significant fiscal harm should the Rule be enacted.

A. The Rule Will Profoundly Diminish Public Health—And Local Governments Will Be Forced to Compensate.

If the Rule takes effect, local governments across the country will pay a heavy price to avoid significant degradation in public health. The Rule will deter immigrants from accessing medical care to which they are entitled and that keeps them and their communities healthy.

²⁰ *Id.*

²¹ DEP'T OF HOMELAND SEC., REGULATORY IMPACT ANALYSIS: INADMISSIBILITY ON PUBLIC CHARGE GROUNDS 2 (2019).

Local governments, which have primary responsibility for providing basic services for the most vulnerable residents, will bear the brunt of addressing the degradation in public health. When individuals avoid preventative care, they are generally less healthy.²² They rely more upon emergency care provided through Amici’s safety-net hospitals²³ or emergency medical services, which drives up costs.²⁴

For example, California’s public health care system, which serves 2.85 million Californians annually, provides 35% of all hospital care to the Medi-Cal population in their communities and nearly 40% of all hospital care to the state’s uninsured residents.²⁵ One such public hospital, Natividad Medical Center in Monterey County, currently incurs an annual unfunded cost of nearly \$7 million treating the uninsured, and spends an additional \$2 million supporting a

²² See, e.g., Paul Fleming & William Lopez, *Researchers: We’re Already Seeing the Effects of Trump’s Green Card Rule*, Detroit Free Press (Aug. 24, 2019), <https://perma.cc/UD7E-2CK4>.

²³ In California, for example, state law requires counties to serve as the healthcare provider of last resort for their residents. Cal. Welf. & Inst. Code § 17000.

²⁴ See, e.g., Am. C. of Emergency Physicians, *The Uninsured: Access to Medical Care Fact Sheet* (2016), <https://perma.cc/FKV6-44YW> (“Emergency care is the safety net of the nation’s healthcare system, caring for everyone, regardless of ability to pay. . .”).

²⁵ Erica Murray, California Association of Public Hospitals and Health Systems, Comment Letter on Proposed Rule *Inadmissibility on Public Charge Grounds* at 2 (Dec. 7, 2018), Docket No. USCIS-2010-0012-36194.

community program it developed to provide basic healthcare services to the uninsured.²⁶ Under the Rule, one expert estimated that Natividad’s unfunded care for the uninsured will increase to over \$15 million annually in costs, and the community program would likely have to double to \$4 million to meet the additional need—a new burden of over \$10 million on just one public coffer.²⁷

Benefits are even more important for children. In Los Angeles County, nearly 250,000 Medi-Cal recipients—including 42,000 children—are likely to be affected by the Rule.²⁸ The County’s Department of Health Services has already observed parents avoiding diagnostic and treatment services provided by the department’s Children’s Medical Services because of the Rule, resulting in a 10% drop in its Medi-Cal caseload.²⁹ For these children and millions of others throughout the country, the impacts of the Rule are dire. Children who cannot access preventative health care, proper nutrition, or stable housing are more likely to develop health conditions and face difficulties in school, curtailing lifetime

²⁶ Decl. of Dr. Gary Gray at 1-2, ¶ 3, *California et al. v. U.S. Dep’t of Homeland Sec. et al.*, No. 4:19-CV-04975-PJH (N.D. Cal. 2019), Doc. No. 18-3.

²⁷ *Id.* ¶ 4.

²⁸ Decl. of Barbara Ferrer at 4-5, ¶¶ 12-13, *California et al. v. U.S. Dep’t of Homeland Sec., et al.*, No. 4:19-CV-04975-PJH (N.D. Cal. 2019), Doc. No. 18-3.

²⁹ *Id.*

earning potential along with basic quality of life.³⁰

Individuals who are afraid to access healthcare also open themselves and their communities up to increased numbers and severity of disease outbreaks, which must be addressed by local public health departments.³¹ Indeed, as otherwise-eligible patients forego vaccinations and other preventative treatments, “herd immunity” is threatened and the public health of all residents is placed at risk.³² This is not a speculative harm; in the 1990s, the then-largest rubella outbreak in the nation was associated with a substantial increase in public charge determinations based on Medicaid use. The disease spread as fear grew and immigrant communities withdrew from public health services for fear of immigration consequences.³³ In recent years, local public health departments, including the Los Angeles County Department of Public Health, have been able to

³⁰ See Ctrs. for Disease Control & Prevention, *Health and Academic Achievement* 2-3 (May 2014), <https://perma.cc/3VXF-Y9LC>; Will Fischer, *Research Shows Housing Vouchers Reduce Hardship and Provide Platform for Long-Term Gains Among Children*, Ctr. on Budget & Pol’y Priorities (Oct. 7, 2015), <https://perma.cc/8BVZ-JC3D>.

³¹ For example, California law obligates cities to “take measures necessary to preserve and protect the public health.” Cal. Health & Saf. Code § 101450; *see also id.* at §§ 101460, 101470.

³² Branswell, *supra* note 17.

³³ Claudia Schlosberg & Dinah Wiley, *The Impact of INS Public Charge Determinations on Immigrant Access to Health Care*, Mont. Pro Bono (May 22, 1998), <https://perma.cc/WX9P-PNDB>.

effectively control outbreaks of various communicable diseases by cooperating with community stakeholders regarding the provision of health services.³⁴ Those efforts—and those undertaken by countless local health departments throughout the country—are directly undermined by the Rule and the atmosphere of fear and distrust that it fosters.

When individuals lose access to health insurance and preventive care, localities' emergency medical and public health services must shoulder the increased burden. Thus, the Final Rule will impose direct and indirect costs on Amici as they seek to care for increasingly unhealthy populations.

B. The Rule Will Increase Homelessness and Exacerbate Existing Housing Crises.

The Rule will significantly contribute to the existing housing and homelessness crisis afflicting Amici's communities, the burden of which already falls disproportionately to local governments.³⁵ This burden will surge if the Rule becomes effective.

First, by threatening the medical, nutrition, and other public benefits that

³⁴ See, e.g., Decl. of Barbara Ferrer at 5-6, ¶¶ 14-17, *California et al. v. U.S. Dep't of Homeland Sec. et al.*, No. 4:19-CV-04975-PJH (N.D. Cal. 2019), Doc. No. 18-3.

³⁵ Joint Ctr. for Hous. Studies of Harvard Univ., *The State of the Nation's Housing 2017* 35; Joint Ctr. for Hous. Studies of Harvard Univ., *The State of the Nation's Housing 2019* 35-36 [hereinafter *The State of the Nation's Housing 2019*].

provide the incremental boost working families need to achieve self-sufficiency, the Rule threatens low-income residents' tenuous grasp on housing. In the current U.S. labor market, many workers have no choice but to combine their earnings with some form of government assistance—however minor—to make ends meet.³⁶ Nationwide, more than 80 percent of low-income households spend more than 30 percent of their income on housing.³⁷ In Los Angeles County, one-third of households spend more than 50 percent of their household income on rent.³⁸ In Maryland, residents working at minimum wage must work 91 hours each week to afford a one-bedroom rental home.³⁹ As a result, although many working families rely on public benefits to ease painful trade-offs between housing, food, and medical care, they live on the edge of homelessness.⁴⁰ By pushing families to forgo supports on which they rely, the Rule threatens to push them into homelessness, and further from self-sufficiency.

³⁶ See Danilo Trisi, *Trump Administration's Overbroad Public Charge Definition Could Deny Those Without Substantial Means a Chance to Come to or Stay in the U.S.*, Ctr. on Budget & Pol'y Priorities (May 30, 2019), <https://perma.cc/Q2LB-95NV>.

³⁷ *The State of the Nation's Housing 2019*, supra note 35, at 4.

³⁸ Los Angeles Homeless Servs. Auth., *2019 Greater Los Angeles Homeless Count Presentation* 8 (Aug. 5, 2019).

³⁹ Nat'l Low Income Hous. Coal., *Out of Reach 2019: Maryland* (2019), <https://perma.cc/7WX8-DQTV>.

⁴⁰ *The State of the Nation's Housing 2019*, supra note 35, at 32-33.

Second, the dramatic expansion of “public charge” to include Section 8 Housing Choice Vouchers, Section 8 Project-Based Rental Assistance, and Public Housing programs will compound this effect. Millions of working low-income households currently receive federal rental assistance.⁴¹ For low-income families with children, this assistance is particularly beneficial—one study found that vouchers reduce the share of families living in shelters or on the streets by three-fourths.⁴² With DHS’s expansion of public charge’s scope, immigrants who are eligible for and need housing subsidies will be forced to choose between securing housing or seeking legal status. Ultimately, many of the effects of homelessness will be borne by local governments.

Apart from the significant burden of housing newly homeless residents, unstable housing situations can lead to a wide range of health-related problems including increased hospital visits, loss of employment, and mental health problems.⁴³ Homelessness is also associated with extraordinary public health issues; some jurisdictions have seen outbreaks of diseases like Typhus and

⁴¹ Will Fischer, *Chart Book: Rental Assistance Reduces Hardship, Promotes Children’s Long-Term Success*, Ctr. on Budget & Pol’y Priorities (July 5, 2016), <https://perma.cc/S2GA-G5HC>.

⁴² *Id.*

⁴³ *See* Fischer, *supra* note 30.

Hepatitis A associated with increases in homelessness.⁴⁴ Local governments are charged with addressing all of these issues, and will be forced to do so using ever-more-stretched local resources.

C. By Punishing Individuals Who Receive Food Assistance, the Rule Multiplies the Harm to Local Governments.

Local governments have a direct interest in their residents' continued use of food assistance to promote healthy communities. As with housing and medical care, when residents lose these supports, local governments are charged with filling the gaps.

For example, SNAP, which is expressly targeted by the Rule, is “the nation’s most important anti-hunger program.”⁴⁵ SNAP provides important nutritional assistance for participants, most of whom are families with children, households with seniors, or people with disabilities.⁴⁶ One in five of the nearly 20 million children who receive SNAP are living with a noncitizen adult.⁴⁷

“[A] mass exodus of mixed-status households from the SNAP program”

⁴⁴ Anna Gorman, *Medieval Diseases Are Infecting California’s Homeless*, Atlantic (Mar. 8, 2019), <https://perma.cc/BFT9-YVNW>.

⁴⁵ Ctr. on Budget & Pol’y Priorities, *Policy Basics: The Supplemental Nutrition Assistance Program (SNAP)* (June 25, 2019), <https://perma.cc/RY3N-GUJY>.

⁴⁶ *Id.*

⁴⁷ Laird, *supra* note 13, at 2 (citing Sara Lauffer, U.S. Dep’t of Agric., *Characteristics of Supplemental Nutrition Assistance Program Households: Fiscal Year 2016* (2017)).

could lead to a considerable increase in the child poverty rate.⁴⁸ SNAP is often used to fill gaps for working individuals with lower incomes, not as a replacement for work.⁴⁹ In the absence of monthly benefits to help families get by, immigrant households will change—or have already changed—food-purchasing behaviors to less nutritious or fresh options, or be forced to make the difficult decision to go hungry or miss monthly payments like rent.

Local governments will feel the effects of reduced food benefit enrollment. Food-insecure women are more likely to experience birth complications than food-secure women; food-insecure children are more likely to suffer from poor physical and mental health.⁵⁰ Food insecurity can also result in lowered workplace productivity, and physical and mental health problems for adults and seniors.⁵¹ Such impacts will lead to increased costs at safety-net hospitals, programmatic increases, and a decline in the economic well-being of Amici's communities.

The loss of federal SNAP benefits ripples out to harm localities' economies

⁴⁸ *Id.* at 6.

⁴⁹ See Hamutal Bernstein et al., Urban Inst., *Safety Net Access in the Context of the Public Charge Rule* 18-19 (Aug. 2019), <https://perma.cc/PY62-4PLG>.

⁵⁰ New York City, Chicago, the U.S. Conference of Mayors, & Signatories, Comment Letter on Proposed Rule *Inadmissibility on Public Charge Grounds* at 16 (Dec. 10, 2018), Docket No. USCIS-2010-0012-62861.

⁵¹ *See id.*

as well. In California, for example, an estimated 860,000 individuals would lose SNAP benefits as a result of the Rule's chilling effects.⁵² Fiscally, this translates into California counties losing up to \$151 million in tax revenue, \$488 million in federal funding, an estimated 17,700 jobs, and \$2.8 billion in economic output.⁵³ The disruption of the flow of SNAP benefits into the county will not only impact immigrant households, but also SNAP retailers and the households they support. This loss of federal revenue will, naturally, have further downstream impacts on the local economy.

D. The Rule Will Undermine Family Cohesion and Amici's Foster Care Systems.

The Rule also cannot be reconciled with the interests of abused and neglected children in the care of local governments. In caring for these children, there is broad agreement that families should remain together if at all possible,⁵⁴ including placing children with other family members when continued placement with parents is untenable. *See, e.g.*, Tex. Fam. Code § 264.151(b)(12) (codifying legislative intent to “promot[e] the placement of children with relative or kinship

⁵² Ninez A. Ponce et al., UCLA Ctr. for Health Policy Research, *Proposed Changes to Immigration Rules Could Cost California Jobs, Harm Public Health* 4 (Dec. 2018), <https://perma.cc/TGD5-UY7Z>.

⁵³ *Id.* at 3, 7.

⁵⁴ U.S. Dep't of Health & Human Servs., Children's Bureau, *Determining the Best Interests of the Child* 2 (2016), <https://perma.cc/Y2NE-B5QC>; *see also* Tex. Fam. Code § 264.151; Cal. Welf. & Inst. Code § 16000.

caregivers” if reunification is impossible); Cal. Welf. & Inst. Code § 16000(a) (specifying that, when a child is removed from her parents’ custody, “preferential consideration shall be given whenever possible to the placement of the child with [a] relative”). The Rule will cause immigrant family members to be reluctant to step forward and assume care for a child. Doing so is a significant resource commitment, and immigrant family members are likely to feel that accepting benefits to do so will threaten their immigration status.⁵⁵ In some cases, willingness to obtain public benefits for support of children, including those targeted by the Rule, is a key criterion in placement decisions. Failure to obtain these resources can threaten parental rights. *See, e.g.*, Tex. Fam. Code § 263.307 (parental ability to provide adequate health and nutrition are placement factors). If made effective, the Rule will force parents to decline the services offered by the State and risk the termination of their parental rights. In other words, the Rule is likely to lead to family destabilization and separation and an increased burden on the foster-care system.

⁵⁵ *See, e.g.*, Maria D. Badillo, Children’s Rights Project at Public Counsel, Comment Letter on Proposed Rule *Inadmissibility on Public Charge Grounds* at 2 (Dec. 10, 2018), Docket No. USCIS-2010-0012-55481.

CONCLUSION

Because the Rule will cause dramatic and immediate harm throughout Amici's communities, this Court should affirm the District Court's Preliminary Injunction Order.

Respectfully submitted,

Dated: January 23, 2020

OFFICE OF THE LOS ANGELES
CITY ATTORNEY

By: /s/ Erin Bernstein
ERIN BERNSTEIN

By: /s/ Danielle L. Goldstein
DANIELLE L. GOLDSTEIN

BARBARA J. PARKER, SBN 069722
Oakland City Attorney
MARIA BEE, SBN 167716
ERIN BERNSTEIN, SBN 231539
MALIA MCPHERSON, SBN 313918
CAROLINE WILSON, SBN 322389
NICHOLAS DEFIESTA, SBN 327777
One Frank H. Ogawa Plaza, 6th Floor
Oakland, California 94612
Telephone: (510) 238-3601
ndefiesta@oaklandcityattorney.org
Attorneys for Amicus Curiae
CITY OF OAKLAND, CA

MICHAEL N. FEUER, SBN 111529
Los Angeles City Attorney
KATHLEEN A. KENEALY, SBN 212289
MIKE DUNDAS, SBN 226930
DANIELLE L. GOLDSTEIN, SBN 257486
200 North Spring Street, 14th Floor
Los Angeles, CA 90012
Telephone: (213) 978-1868
danielle.goldstein@lacity.org
Attorneys for Amicus Curiae
CITY OF LOS ANGELES, CA

(Additional counsel listed on following page)

By: /s/ Margaret L. Carter
Margaret L. Carter

MARGARET L. CARTER
DANIEL R. SUVOR
O'MELVENY & MYERS LLP
400 South Hope Street, 18th Floor
Los Angeles, California 90071
TELEPHONE: (213) 430 6000
FACSIMILE: (213) 430 6407

Attorneys for Amicus Curiae
COUNTY OF LOS ANGELES

By: /s/ Marina S. Pantchenko
MARINA S. PANTCHENKO

LESLIE J. GIRARD
County Counsel
WILLIAM M. LITT
Deputy County Counsel
ANNE K. BRERETON
Deputy County Counsel
MARINA S. PANTCHENKO
Deputy County Counsel
168 West Alisal Street, 3rd Floor
Salinas, CA 93901

Attorneys for the County of Monterey,
California

KATHRYN E. DOI
RACHAEL E. BLUCHER
NATALIE M. SMITH
HANSON BRIDGETT LLP
500 Capitol Mall, Suite 1500
Sacramento, CA 95814
Attorneys for the County of Monterey,
California

APPENDIX A - LIST OF AMICI CURIAE

The California State Association of Counties
The County of Alameda, California
The City of Albuquerque, New Mexico
The City of Austin, Texas
The City of Baltimore, Maryland
The City of Dallas, Texas
The City and County of Denver, Colorado
The City of Detroit, Michigan
The County of Harris, Texas
The City of Holyoke, Massachusetts
The City of Houston, Texas
The County of King, Washington
The City of Los Angeles, California
The County of Los Angeles, California
The City of Madison, Wisconsin
The County of Marin, California
The City of Minneapolis, Minnesota
The County of Monterey, California
The City of Oakland, California
The City of Sacramento, California
The County of San Mateo, California
The County of Santa Cruz, California
The City of Santa Monica, California
The City of Tucson, Arizona
The City of West Hollywood, California

ADDITIONAL COUNSEL FOR AMICI CURIAE

JENNIFER B. HENNING
Litigation Counsel
1100 K Street, Suite 101
Sacramento, CA 95814
*Attorney for the California State
Association of Counties*

VINCE RYAN
County Attorney
ROBERT HAZELTINE-SHEDD
1019 Congress
Houston, Texas 77002
*Attorneys for the County of Harris,
Texas*

DONNA R. ZIEGLER
County Counsel for the County of
Alameda
1221 Oak Street, Suite 450
Oakland, CA 94612
*Attorney for the County of Alameda,
California*

CHRISTOPHER J. CASO
Interim Dallas City Attorney
City Attorney's Office
1500 Marilla Street, Room 7DN
Dallas, Texas 75201
Attorney for the City of Dallas, Texas

ESTEBAN A. AGUILAR, JR.
City Attorney
One Civic Plaza NW
PO Box 2248
Albuquerque, NM 87103
*Attorney for the City of Albuquerque,
New Mexico*

KRISTIN M. BRONSON
City Attorney
City and County of Denver
1437 Bannock Street, Room 353
Denver, CO 80202
*Attorney for the City and County of
Denver, Colorado*

ANNE L. MORGAN
City Attorney
PO Box 1546
Austin, TX 78767-1546
Attorney for City of Austin, Texas

LAWRENCE GARCIA
ELI SAVIT
2 Woodward Avenue
Detroit, MI 48226
*Attorneys for the City of Detroit,
Michigan*

ANDRE M. DAVIS
City Solicitor
100 N. Holliday Street, Suite 101
Baltimore, MD 21202
*Attorney for the Mayor and City
Council of Baltimore, Maryland*

CRYSTAL BARNES
Acting City Solicitor
Holyoke Law Department
20 Korean Veterans Plaza, Rm. 204
Holyoke, MA 01040
*Attorney for the City of Holyoke,
Massachusetts*

ADDITIONAL COUNSEL FOR AMICI CURIAE
(continued)

RONALD C. LEWIS
City Attorney
JUDITH L. RAMSEY, Chief, General
Litigation Section
COLLYN PEDDIE, Sr. Assistant City
Attorney
900 Bagby, 4th Floor
Houston, Texas 77002
*Attorneys for the City of Houston,
Texas*

HOWARD PHILLIP
SCHNEIDERMAN
Senior Deputy Prosecuting Attorney
King County Prosecuting Attorney's
Office
516 – 3rd Avenue, W400
Seattle, WA 98104-2388
*Counsel for King County, WA and
Public Health – Seattle & King County*

MICHAEL P. MAY
City Attorney for the City of Madison
210 Martin Luther King Jr. Blvd
Room 401
Madison, Wisconsin 53703
(608) 266-4511
*Counsel for the City of Madison,
Wisconsin*

BRIAN E. WASHINGTON
County Counsel
3501 Civic Center Drive, Suite 275
San Rafael, California 94903
*Attorney for the County of Marin,
California*

ERIK NILSSON
Interim Minneapolis City Attorney
Minneapolis City Attorney's Office
City Hall, Room 210
350 South Fifth Street
Minneapolis, MN 55415
*Attorney for the City of Minneapolis,
Minnesota*

SUSANA ALCALA WOOD
City Attorney
915 I Street, Fourth Floor
Sacramento, CA 95814
*Attorney for the City of Sacramento,
California*

ADDITIONAL COUNSEL FOR AMICI CURIAE
(continued)

JOHN C. BEIERS
County Counsel
DAVID A. SILBERMAN, Chief
Deputy
ILANA PARMER MANDELBAUM,
Deputy
Hall of Justice and Records
400 County Center, 6th Floor
Redwood City, CA 94063
*Attorneys for the County of San Mateo,
California*

MICHAEL RANKIN
City Attorney
255 W. Alameda, 7th Floor
P.O. Box 27210
Tucson, AZ 85726-7210
*Attorney for the City of Tucson,
Arizona*

JASON M. HEATH
County Counsel
County of Santa Cruz
701 Ocean Street, Room 505
Santa Cruz, CA 95060
*Attorney for the County of Santa Cruz,
California*

MICHAEL JENKINS
City Attorney
Best Best & Krieger LLP
1230 Rosecrans Avenue, Ste 110
Manhattan Beach, CA 90266
*Attorney for the City of West
Hollywood, California*

LANE DILG
City Attorney
KIRSTEN GALLER
1685 Main Street, Room 310
Santa Monica, CA 90401
*Attorneys for the City of Santa Monica,
California*

CERTIFICATE OF COMPLIANCE

I certify that this document complies with the type-volume limitation set forth in Federal Rule of Appellate Procedure 29(a)(5) because it contains 4,094 words, exclusive of the portions of the brief that are exempted by Federal Rule of Appellate Procedure 32(f). I certify that this document complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6).

Dated: January 23, 2020

By: /s/ Danielle L. Goldstein
Danielle L. Goldstein

CERTIFICATE OF SERVICE

I, Danielle L. Goldstein, hereby certify that I electronically filed this Brief of Amici Curiae the California State Association Of Counties and 24 Counties, Cities, and Municipalities in Support of Plaintiffs-Appellees and Affirmance with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on January 23, 2020. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Executed January 23, 2020, at Los Angeles, California.

/s/ Danielle L. Goldstein

Danielle L. Goldstein