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9  
 10 IN THE UNITED STATES DISTRICT COURT  
 11 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 12

13 CITY AND COUNTY OF SAN FRANCISCO,  
 14 Plaintiff,  
 15 vs.  
 16 ALEX M. AZAR II, et al.,  
 17 Defendants.

No. C 19-02405 WHA  
 No. C 19-02769 WHA  
 No. C 19-02916 WHA

**DECLARATION OF JAY STURGES  
 IN SUPPORT OF PLAINTIFF'S  
 MOTION FOR SUMMARY  
 JUDGMENT AND IN SUPPORT OF  
 THEIR OPPOSITION TO  
 DEFENDANTS' MOTION TO  
 DISMISS OR, IN THE  
 ALTERNATIVE, FOR SUMMARY  
 JUDGMENT**

18 STATE OF CALIFORNIA, by and through  
 ATTORNEY GENERAL XAVIER BECERRA,  
 19 Plaintiff,  
 20 vs.

Date: October 30, 2019  
 Time: 8:00 AM  
 Courtroom: 12  
 Judge: Hon. William H. Alsup  
 Action Filed: 5/2/2019

21 ALEX M. AZAR, et al.,  
 22 Defendants.

23 COUNTY OF SANTA CLARA et al,  
 24 Plaintiffs,  
 25 vs.

26 U.S. DEPARTMENT OF HEALTH AND  
 HUMAN SERVICES, et al.,  
 27 Defendants.  
 28

1 I, Jay Sturges, declare:

2 1. I am the Associate Secretary, Fiscal Policy and Administration, for the California  
3 Labor and Workforce Development Agency (LWDA). I serve as the primary advisor to the  
4 Agency Secretary on the interpretation, development, evaluation and implementation of Agency-  
5 level fiscal policies and for ensuring the fiscal integrity of the departments, boards and panels  
6 within the LWDA.

7 2. The LWDA is an agency in the executive branch, and the Secretary is a member of  
8 the Governor's Cabinet. LWDA oversees seven major departments, boards and panels that serve  
9 California businesses and workers: the Agricultural Labor Relations Board, the California  
10 Employment Development Department, the California Public Employment Relations Board, the  
11 California Unemployment Insurance Appeals Board, the California Workforce Development  
12 Board, the Department of Industrial Relations, and the Employment Training Panel. LWDA  
13 programs and services touch the lives of all members of the state's workforce and their families.

14 3. I am familiar with the rule Protecting Statutory Conscience Rights in Health Care;  
15 Delegations of Authority, RIN 0945-AA10, issued by the U.S. Department of Health and Human  
16 Services (HHS) on May 2, 2019, and published in the Federal Register on May 21, 2019 (the  
17 Rule).

18 4. The Rule has already imposed costs on California. LWDA and the departments  
19 within the agency have already spent more than 11 hours reading and analyzing the Rule and  
20 attempting to determine its potential impacts on our programs and workforce.

21 5. The Rule jeopardizes federal funds departments within the LWDA receive from  
22 the U.S. Department of Labor, if California is determined to violate the Rule. Loss of federal  
23 funding will have a deleterious impact on California, the nation's most populous state, by  
24 hampering workplace safety, stifling economic development, and harming efforts to assist  
25 unemployed individuals. LWDA and the departments and offices it oversees will be unable to  
26 absorb such a tremendous loss of funding without a reduction in staffing, programs and services.

27 6. Federal funding comes to the departments within the LWDA from appropriations  
28 acts approved by Congress and signed by the president. The Department of Defense and Labor,

1 Health and Human Services, and Education Appropriations Act, 2019 and Continuing  
2 Appropriations Act, 2019, Public Law 115-245, which was enacted September 28, 2019, makes  
3 appropriations for the following programs (among others), which provide funding to the  
4 departments within the LWDA:

- 5 • Title III of the Social Security Act, (the State Unemployment Insurance Program), to  
6 provide payments to laid-off workers;
- 7 • The Workforce Innovation and Opportunity Act, including grants to states for adult  
8 employment and training activities, youth activities, and dislocated worker  
9 employment and training activities;
- 10 • The Wagner-Peyser Act of 1933 to establish a nationwide system of public  
11 employment offices to assist individuals seeking employment;
- 12 • The Occupational Safety and Health Act, section 23(g), to assist states in  
13 administering and enforcing programs for occupational safety and health;
- 14 • The Jobs for Veterans State grants program under 38 U.S.C. 4102A(b)(5) to support  
15 disabled veterans' outreach program specialists; and
- 16 • The National Apprenticeship Act to expand apprenticeship and on-the-job training  
17 programs.

18 7. Federal funding supports numerous programs within the LWDA, including dollars  
19 that support state operations or are passed through to local workforce development boards. With  
20 regard to the programs within LWDA (among others) that are jeopardized by the Rule, the state's  
21 2019-20 Governor's Budget anticipates receiving federal funding in state fiscal year 2018-19 for  
22 the following programs:

- 23 • The California Employment Development Department provides short-term income  
24 replacement for individuals who are unemployed through no fault of their own  
25 through the administration of the Unemployment Insurance benefit payment program,  
26 allocates funding to local workforce development boards and provides direct services  
27 that benefit job seekers and employers statewide (\$899.9 million);

- 1           • The California Unemployment Insurance Appeals Board conducts impartial hearings  
2           and issues decisions to resolve disputed unemployment insurance determinations  
3           (\$66.5 million);
- 4           • The California Workforce Development Board, which collaborates with both state and  
5           local partners to establish and continuously improve the state workforce system, with  
6           an emphasis on California's economic vitality and growth (\$4.8 million);
- 7           • The Department of Industrial Relations (DIR), which is responsible for enforcing  
8           workers' compensation insurance laws, adjudicating workers' compensation claims,  
9           and working to prevent industrial injuries and deaths, as well as promulgating  
10          regulations and enforcing laws relating to wages, hours, and conditions of  
11          employment, promoting apprenticeship and other on-the-job training, and analyzing  
12          and disseminating statistics which measure the condition of labor in the state (\$38.3  
13          million);

14           8.       Within DIR, federal funding supports numerous programs and subprograms,  
15          including the following:

- 16          • The Division of Occupational Safety and Health, which promotes and enforces  
17          measures to protect the health and safety of workers on the job and the safe operation  
18          of elevators, amusement rides, aerial passenger tramways, and pressure vessels for the  
19          benefit of the general public, is authorized through the state budget to receive a total of  
20          \$36.4 million in federal funding in 2018-19. This supports the Compliance  
21          subprogram (\$25.9 million), the Mining and Tunneling subprogram (\$433,000), the  
22          Occupational Safety and Health Appeals Board (\$2.3 million), the Occupational  
23          Safety and Health Standards Board (\$1.2 million), and Consultation Services (\$6.6  
24          million);
- 25          • The Division of Labor Standards Enforcement, for the Retaliation subprogram  
26          (\$504,000); and
- 27          • The Division of Apprenticeship Standards, to increase the number of apprenticeships  
28          in California (\$1.4 million).

