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15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**

17 COUNTY OF SANTA CLARA,
18 Plaintiff,

19 v.

20 DONALD J. TRUMP, President of the United
21 States of America, JOHN F. KELLY, in his
22 official capacity as Secretary of the United States
23 Department of Homeland Security, JEFFERSON
24 B. SESSIONS, in his official capacity as Attorney
25 General of the United States, JOHN MICHAEL
26 "MICK" MULVANEY, in his official capacity as
27 Director of the Office of Management and Budget,
28 and DOES 1-50,

Defendants.

CASE NO. 3:17-cv-00574-WHO

[PROPOSED] BRIEF AMICI CURIAE

Date: April 5, 2017
Time: 2:00 pm
Dep't: Courtroom 2
Judge: Hon. William H. Orrick

Date Filed: March 22, 2017

Trial Date: Not yet set

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Executive Order 13768, 82 Fed. Reg. 8799 (Jan. 25, 2017)1

Tuberculosis Control Branch, Cal. Dep’t of Pub. Health, *Responsibilities of Pub. Health Dep’ts to Control Tuberculosis*3

Thomas R. Frieden, M.D, M.P.H., *Government’s Role in Protecting Health and Safety*, 368 N. Eng. J. Med. 1857 (2013)3

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INTRODUCTION

Amici together represent and advocate for millions of employees nationwide, including many in the County of Santa Clara (“Santa Clara”) and the City and County of San Francisco (“San Francisco”) who provide and depend on the public services threatened by President Trump’s unconstitutional Executive Order. SEIU members, for example, work in Santa Clara and San Francisco as public-employee doctors, nurses, homecare aides, and family support specialists. The important work they do and services they provide are described in Part I of this brief; Part II tells of their specific personal experiences and their concerns about the harm the Executive Order will do to their patients and clients, to their own families, and to the trust in public-service professionals that is essential to the care they provide.

The stories of these front-line workers are relevant to Santa Clara’s and San Francisco’s arguments under the Spending Clause, because they show the breadth and depth of the Executive Order’s impact on local jurisdictions’ federally funded programs that have nothing to do with immigration enforcement. These workers’ experiences, which are emblematic of experiences nationwide, are also relevant because they show the irreparable harm that President Trump’s unlawful Order will do to public employees and people across the country. Indeed, Santa Clara, San Francisco, and jurisdictions across the United States are already weighing an impossible choice between two forms of irreparable harm to their workers and residents: Either they eliminate jobs now to protect their budgets from the federal government’s failure to reimburse for costs incurred, or they operate under a cloud of fiscal disarray.

ARGUMENT

I. The Challenged Executive Order Undermines the Health and Well-Being of Millions of Residents and Workers.

President Trump’s Executive Order 13768, 82 Fed. Reg. 8799 (Jan. 25, 2017), poses an immediate threat of irreparable harm to the over 2.7 million residents,¹ thousands of public

¹ Cnty. of Santa Clara’s Mot. for Prelim. Inj. 1; City & Cnty. of San Francisco’s First Am. Compl. for Declaratory & Inj. Relief ¶109.

1 employees, and essential public institutions and economies of Santa Clara and San Francisco—
 2 harm that will be replicated in jurisdictions across the country if an injunction is not entered.

3 The Executive Order threatens Santa Clara’s and San Francisco’s receipt of \$2.9 billion in
 4 federal funds—funds that support Santa Clara’s Valley Medical Center, Social Services Agency,
 5 Public Health Department, and Office of Emergency Services, as well as San Francisco’s Human
 6 Services Agency, Department of Public Health, Department of Emergency Management,
 7 Department of Transportation, and other crucial public programs. These vital community
 8 institutions protect and improve the health and well-being of Santa Clara’s and San Francisco’s
 9 residents by ensuring that experienced and skilled public employees provide necessary services.

10 Indeed, California counties have a legal responsibility to provide health care to their
 11 indigent populations, *see* California Welfare & Institutions Code §17000, and county hospitals and
 12 public health departments enable Santa Clara and San Francisco to comply with this obligation.
 13 Santa Clara and San Francisco County hospitals, such as the award-winning Valley Medical Center
 14 and Zuckerberg San Francisco General Hospital,² provide high quality, cost-effective medical care
 15 to all residents of the Counties regardless of their ability to pay. These safety-net hospitals care for
 16 the most vulnerable patients in the health care system, providing extensive services, both inpatient
 17 and outpatient care, to Medicaid and uninsured patients. *See, e.g.,* Katherine Neuhausen, *et al.*,
 18 *Disproportionate Share Hospital Payment Reductions May Threaten Financial Stability of Safety-*
 19 *Net Hospitals*, 33(6) *Health Affairs* 988–96 (2014). Funding cuts to county hospitals have serious
 20 consequences for patients, including the loss of emergency medical care³ and reduced access to
 21 cancer treatments, intensive care beds, and surgery. One of the ripple effects caused by reduced

22
 23 ² Valley Medical Center has received honors and awards for excellence from the March of
 24 Dimes, American Diabetes Association, Veterans Affairs Department, and others. *See*
 25 <https://www.scvmc.org/about/Pages/awards.aspx>. Zuckerberg San Francisco General Hospital is
 an international leader in HIV/AIDS care and the only Level 1 Trauma Center in San Francisco
 and Northern San Mateo County. *See* [http://zuckerbergsanfranciscogeneral.org/about-the-](http://zuckerbergsanfranciscogeneral.org/about-the-hospital/)
 hospital/.

26 ³ Jane Wishner, *et al.*, *A Look at Rural Hospital Closures and Implications for Access to*
 27 *Care: Three Case Studies*, The Kaiser Comm’n on Medicaid & the Uninsured: Issue Br. (July
 28 2016), [http://files.kff.org/attachment/issue-brief-a-look-at-rural-hospital-closures-and-](http://files.kff.org/attachment/issue-brief-a-look-at-rural-hospital-closures-and-implications-for-access-to-care)
 implications-for-access-to-care.

1 access to emergency treatments is increased hospital admission rates resulting in death. *See, e.g.,*
2 Charles Liu, et al., *California Emergency Department Closures Are Associated with Increased*
3 *Inpatient Mortality at Nearby Hospitals*, 33(8) *Health Affairs* 1323–1329 (2014).

4 Public health departments focus on prevention to protect their populations from illness,
5 disease, and injuries. *See* Am. Public Health Ass’n, *The Role of Public Health in Ensuring Healthy*
6 *Communities* (Jan. 1, 1995) (Policy Statement No. 9521(PP)). The Santa Clara and San Francisco
7 Public Health Departments comprise dozens of programs and services addressing the specific
8 health needs of their communities, ranging from lowering tuberculosis rates, combating Zika
9 dangers, monitoring HIV/AIDS, and preventing the damaging effects of lead poisoning, to working
10 with high risk mothers and babies. *See* Santa Clara Cnty. Pub. Health Dep’t,
11 <https://www.sccgov.org/sites/sccphd/en-us/aboutus/Pages/default.aspx>; San Francisco Dep’t of
12 Pub. Health, <https://www.sfdph.org/dph/default.asp>. Law mandates some public health department
13 activities, such as the diagnosis and treatment of tuberculosis. *See* Tuberculosis Control Branch,
14 Cal. Dep’t of Pub. Health, *Responsibilities of Pub. Health Dep’ts to Control Tuberculosis*,
15 [http://www.ctca.org/filelibrary/Responsibilities of Public Health Departments to Control](http://www.ctca.org/filelibrary/Responsibilities%20of%20Public%20Health%20Departments%20to%20Control%20Tuberculosis_6-24-13_final.pdf)
16 [Tuberculosis_6-24-13_final.pdf](http://www.ctca.org/filelibrary/Responsibilities of Public Health Departments to Control Tuberculosis_6-24-13_final.pdf).

17 Public health departments bring economic and productivity gains to their jurisdictions by
18 saving millions of dollars in healthcare costs. One study found that each \$10 increase in per capita
19 health department expenditures leads to a 7.4% decrease in infectious-disease mortality. *See* Paul
20 Campbell Erwin, M.D., D.P.H., et al., *Resources That May Matter: The Impact of Local Health*
21 *Department Expenditures on Health Status*, 127 *Pub. Health Reports* 89 (2012). “When
22 government fails to protect and improve people’s health, society suffers.” Thomas R. Frieden,
23 M.D, M.P.H., *Government’s Role in Protecting Health and Safety*, 368 *N. Eng. J. Med.* 1857
24 (2013).

25 County social service agencies promote the economic and social well-being of individuals
26 and communities, serving seniors, dependent adults, children, and the disabled. Santa Clara
27 County’s Social Services Agency and San Francisco’s Human Services Agency offer In-Home
28

1 Supportive Services to eligible aged, blind, and disabled residents who, without care, would be
2 unable to remain safely in their own homes. These programs divert chronically impaired people
3 from nursing homes by providing quality services at lower costs. Laurel Beck, Pub. Policy Inst. of
4 Cal., *Cal.'s In-Home Support Program* (Nov. 2015), [http://www.ppic.org/main/publication_](http://www.ppic.org/main/publication_show.asp?i=1169)
5 [show.asp?i=1169](http://www.ppic.org/main/publication_show.asp?i=1169). The protection of children from child abuse is also a primary function of the
6 Santa Clara and San Francisco agencies: Social workers screen and investigate reports of child
7 abuse and neglect, and ensure that children are protected while emphasizing less restrictive
8 placement alternatives. Patricia A. Schene, *Past, Present, and Future Roles of Child Protective*
9 *Servs.*, 8(1) *Protecting Children From Abuse & Neglect* 23–38 (Spring 1998).

10 Within these departments and agencies, public workers are the lifeblood of the community
11 safety net, providing world-class health care, nursing the sick, caring for seniors and disabled
12 individuals, keeping neighborhoods safe, educating children, and providing other essential services
13 for all who live and work in Santa Clara and San Francisco. The Counties' physicians, public-
14 health nurses, and homecare workers are on the front line of the healthcare system, responsible for
15 integrating culturally sensitive hospital and in-home care. The Counties' social workers protect
16 children and the elderly from abuse; their public health advocates ensure that individuals affected
17 by mental illness have safe, supportive environments; and their emergency dispatchers give
18 childbirth and CPR instructions over the phone while sending firemen, EMT staff, and sheriff's
19 deputies to emergency situations. Ultimately, the Counties' health and social service workers are
20 the foundation for planning, delivering, and managing Santa Clara's and San Francisco's complex
21 infrastructures of critical public services.

22 The individuals whose experiences and concerns are recounted below are workers in Santa
23 Clara's and San Francisco's county hospitals, public health departments, and social service
24 agencies. They have chosen to work for these county institutions because of their deep
25 commitment to providing comfort and service to those in need, and because of their belief in
26 working for the public good. The experiences of these women and men illustrate the importance of
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1 this case to millions of individuals and families, working people in these Counties and beyond, and
2 the nation as a whole.

3 **II. The Human Impact of Executive Order 13768**

4 **A. Impact on Public Hospitals**

5 Nurses and doctors who work in the public-hospital system understand that federal funding
6 cuts will be catastrophic for public health and that President Trump's Order, which seeks to compel
7 county agencies to engage in immigration enforcement, will foster distrust of county workers and
8 discourage immigrant families from seeking care.

9 Nurse Sasha Cuttler, who helps oversee quality and safety programs at Zuckerberg San
10 Francisco General Hospital, worries that the Executive Order will affect public-health funding.⁴
11 Mr. Cuttler is a 56-year-old city resident and member of SEIU Local 1021, has been a nurse since
12 1985, and has dedicated his career to making improvements to public health. He notes that among
13 its many roles, San Francisco General maintains the only psychiatric emergency room and trauma
14 center in the city, provides health services for jails in San Francisco, and operates a rape crisis
15 center.

16 Mr. Cuttler has a particular expertise in tuberculosis, having written a doctoral dissertation
17 about control of the disease in San Francisco. In his research, Mr. Cuttler found that tuberculosis
18 survival rates were tied to the city's provision of publicly funded, no-cost care, which allowed San
19 Francisco to achieve lower infection rates and mortality levels than other cities. He believes that
20 the Executive Order's anti-immigrant animus will further escalate fear among immigrant
21 communities and lead patients not to seek care for infectious disease and other conditions: "Public
22 health has no borders and making people afraid to accept care is a recipe for epidemic disease.
23 That's an inevitable consequence." Furthermore, in Mr. Cuttler's experience, federal grant funds
24 have been crucial to care improvement projects, such as a project funded by a grant from the
25 federal Agency for Healthcare Research and Quality that reduced fall injuries in his hospital.

26 _____
27 ⁴ Mr. Cuttler and the other individuals named here were interviewed by attorneys about
28 their experiences and work. They have given amici permission to tell their stories, and records of
their interviews and statements are on file with undersigned counsel.

1 Mr. Cuttler has already seen the impact of an increasingly anti-immigrant climate. Students
2 from a local vocational high school who intern at his hospital have said that they have been
3 harassed and told to “return to Mexico.” And Immigration and Customs Enforcement recently
4 visited a daycare center two blocks from the hospital looking for someone. Mr. Cuttler believes
5 these actions create fear among the patient population.

6 Dr. Joe, a second-year, internal-medicine resident at Valley Medical Center, is similarly
7 concerned about serious consequences stemming from cuts in publicly funded healthcare services.⁵
8 He, too, has experience with tuberculosis, having seen a patient in his primary care service who
9 had not received any medical care for many years and who complained of a cough. Dr. Joe ordered
10 an x-ray and learned that the patient had already lost half of one lung to tuberculosis. Without the
11 County’s medical services, Dr. Joe’s patient would have not only risked further harm to himself but
12 also continued to expose thousands of people to that dangerous disease.

13 Dr. Joe is particularly aware of the need for the culturally sensitive medical services that the
14 County provides, which are essential to achieving trust among traditionally underserved
15 populations. He remembers vividly a patient he saw last year who had been the victim of human
16 trafficking and who came to him during her dialysis treatments. Using the network of services
17 available at Valley Medical Center, Dr. Joe worked with a team of social workers, nurses,
18 clinicians, and other staff to earn the patient’s trust and learn her full story. The information
19 elicited turned out to be crucial to the patient’s proper diagnosis, treatment, and follow-up.

20 Given that experience and others, Dr. Joe believes it is critical that underserved populations
21 who may have a distrust of the medical system have a safe place where their medical needs can be
22 addressed. “I know how scary it is for people to trust a foreign and complex medical system. I
23 have family members who were sick and I know how much it meant to them to have a doctor . . .
24 who they really believed wanted to help them. I want to be that compassionate physician”

25 _____
26 ⁵ Dr. Joe asked that his last name not be printed in this brief. He has undergraduate and
27 medical school degrees from the University of California, Davis, and he chose to do his residency
28 at Santa Clara’s County hospital, Valley Medical Center, because he believes “passionately in the
importance of serving vulnerable populations[.]” Dr. Joe is a member of SEIU’s Committee of
Interns and Residents.

1 **B. Impact on Public-Health Workers**

2 Public employees are also worried about the effect the Executive Order will have on their
3 public-health work.

4 Pamela Ortiz, a 54-year-old mother of three and licensed vocational nurse, has provided
5 safety-net health services for the county health system since 1997, including sixteen years working
6 at a county methadone clinic. She is concerned that when services are cut because of President
7 Trump’s Executive Order, she will not be able to conduct visits to provide testing, vaccination, and
8 education to patients in residential substance abuse treatment programs. She fears patients will
9 stop seeking testing and services as a result, thereby weakening public health for the community as
10 a whole.

11 Ms. Ortiz believes her patients will not be able to afford private drug-treatment services and
12 will wait longer for help, leading to increased hospitalizations and costs. Fear of rising costs is
13 already a reality: One patient was recently misinformed that he had to pay hundreds of dollars for
14 x-rays (though they were covered by the county); the patient left the program two days later. Ms.
15 Ortiz worries that this will happen more often when services are cut and patients do not have a
16 health care worker, like herself, whom they trust to provide services in a non-judgmental way. The
17 rise in overdoses the country is already experiencing worries her, and when funding is cut, she
18 predicts the situation will become much worse.

19 Ms. Ortiz viscerally understands the importance of a healthcare safety net. She was born at
20 the county hospital, Valley Medical Center, and raised by her single mother in San Jose with the
21 assistance of Aid to Families with Dependent Children (AFDC) benefits. Unfortunately, her
22 mother died of congestive heart failure because of pneumonia in 1990, at the age of 54, because
23 she lacked health insurance. Ms. Ortiz herself raised and sent two daughters to college with her
24 salary, and hopes to do the same for her 15-year-old son. But because of the high cost of housing
25 in San Jose (which has already forced her to live an hour and a half away from her job), she fears
26 that if she is let go because of funding cuts she could face homelessness—and will face age
27 discrimination in any search for a new job. For all these reasons Ms. Ortiz believes in county
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1 services, in the importance of preventive healthcare, and in reaching underserved populations.
2 What makes the difference, she says, is “having the funding to treat, talk, test, and educate people
3 and let them know they matter to us no matter where they come from.”

4 Marilyn Mara is a 51-year-old nurse employed by Santa Clara County’s Department of
5 Public Health who emigrated from the Philippines at age 13 and who has worked for the County
6 for eighteen years providing essential health services. She is concerned about the effects the
7 Executive Order will have on the client population she serves, who are among society’s most
8 vulnerable: “We work with high-risk populations including infants who can be medically fragile
9 and premature, mothers with postpartum depression, pregnant and parenting teens, neglected and
10 abused children, children with high levels of lead, obese children at risk for diabetes, patients with
11 tuberculosis or other communicable diseases, adults and the elderly with chronic medical
12 conditions, patients with history of domestic violence and substance-use, and others.” She worries
13 that when services are cut, patients will rely more on emergency services and drive up costs; she
14 believes cuts in funding “will be felt for years and maybe decades” in terms of public health.

15 In Ms. Mara’s experience, continuity of care is crucial, and trust plays an important role in
16 achieving that continuity. If patients do not trust their providers, they will skip “regular well-child
17 check-ups and immunizations, follow up less frequently with primary providers, and their medical
18 conditions will worsen.” And Ms. Mara worries that the anti-immigrant animus of the Executive
19 Order will have that effect: She believes fear of deportations or raids will lead members of
20 immigrant communities to stay home and avoid seeking services.

21 **C. Impact on Social Services**

22 Public employees who provide other social services worry about the Executive Order’s
23 effects as well.

24 Claudia Nicole Arevalo, a 51-year-old member of SEIU Local 2015, has worked for twenty
25 years as a caregiver for the In-Home Supportive Services program in San Francisco. She currently
26 provides home care for three different patients, two of whom have no family to help them. Ms.
27 Arevalo cares for her patients ten hours per day Monday to Friday and for four hours on Saturday.

1 She assists them by doing their grocery shopping, cooking food, housekeeping, administering
2 medication, accompanying them to medical appointments, and keeping them company. She
3 describes herself as “a nurse, housekeeper, psychologist, and chef, all in one,” and she believes
4 when public funding is cut, her clients will most likely get sicker and require more hospitalizations.

5 The Executive Order also worries Ms. Arevalo personally because she lives with her
6 daughter and granddaughter and is afraid that when program funding is cut, she may not be able to
7 support them. Ms. Arevalo emigrated from El Salvador in 1992 and has built a life here, like other
8 hard-working immigrants. If she experiences pay cuts or loses her job, she will “lose everything
9 I’ve built since I got here. I’ve bought a house and I’m paying for it every month. How would I
10 eat? It would be the worst thing to happen to me.” Ms. Arevalo also sees “a lot of fear already in
11 the immigrant communities. People are already not shopping or going out; they’re also getting sick
12 and dying and preparing to go back to the countries of their births. The whole United States will be
13 hit hard.”

14 Julie Meyers is a 62-year-old member of SEIU Local 1021 who works as a child welfare
15 supervisor for San Francisco’s Human Services Agency. Ms. Meyers is on the front lines of
16 ensuring that children are not neglected or abused and that families have the resources they need to
17 stay united. She oversees a team of seven social workers who on a daily basis respond to referrals
18 of potential child abuse with phone calls or home visits to determine risk. She works closely with
19 the courts to ensure that families receive services they need and that children are safe. Ms. Meyers
20 has been doing this life-saving work for twenty-seven years.

21 Ms. Meyers is concerned that when federal funding is cut, child-protective services will be
22 cut back or eliminated, and San Francisco’s neediest children will be made even more vulnerable.
23 She says immigrant children are already suffering the most: “A lot of them are unaccompanied.
24 So they might be here by themselves, not speaking the language, not knowing who to trust, no
25 money, no way to support themselves, so they’re the perfect target for abuse and exploitation.”
26 She fears that without the services the agency provides to poor city residents, many more will
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1 become homeless or starve. She believes the negative effects would be felt widely: hungry
2 children will do poorly in school, and the sick will worsen.

3 Lorena Briones is a social worker for Santa Clara County who has been employed by the
4 County and has been a member of SEIU Local 521 for twenty-one years. She evaluates and
5 manages the service needs of a range of clients who are unable to remain in their home without
6 additional care. Ms. Briones's caseload is anywhere between 276 and 340 clients, and her recent
7 clients have included an individual diagnosed with ALS who was incapable of any form of self-
8 care; a 95-year-old woman who lived alone; a quadriplegic young person; a severely autistic young
9 man; and a little girl with paranoid schizophrenia. In all cases, Ms. Briones assesses the needs not
10 only of the disabled or elderly individual but also of the family members who care for that
11 individual, in order to determine the best way to help the family as a whole.

12 Ms. Briones does not know what will happen to the vulnerable populations she serves when
13 funding is cut in Santa Clara County: "There are more than 21,000 clients with severe, life-
14 threatening problems in Santa Clara County. Without the help that we arrange for them, I don't
15 know how they would survive." Ms. Briones is also the sole support for her 14-year-old daughter
16 and 10-year-old son and worries that when the County is defunded, she will not earn enough to
17 care for her children and ensure that they have health insurance. But Lorena remains committed to
18 the County's goal of helping those who cannot help themselves, and her work with people who
19 have suffered so much helps her "remember every day when I leave my home how blessed I am."

20 CONCLUSION

21 President Trump's unconstitutional and punitive Executive Order threatens a wide range of
22 critical programs that have nothing to do with immigration. And the Order is causing irreparable
23 harm to jurisdictions like San Francisco and Santa Clara and will continue to cause irreparable
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1 harm to communities and the public employees who serve them. Accordingly, amici urge the
2 Court to enter the requested preliminary injunction.

3
4 Dated: March 22, 2017

/s/ Claire Prestel
Claire Prestel

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