



Best Practices from the States: Responses to Legal Challenges to ACA

Lawmakers in over 40 states have proposed referendums, laws or state constitutional amendments that would block key parts of the Affordable Care Act (ACA). This includes the requirement that everyone have health insurance – otherwise termed the individual mandate. Additionally, 20 states have joined to sue the federal government and challenge the constitutionality of ACA generally and the individual mandate specifically; this group is led by Florida’s Attorney General Bill McCollum. Virginia is challenging the individual mandate on similar grounds, spearheaded by Attorney General Ken Cuccinelli.

As a result of a mid-term election power shift, numerous groups and individuals both opposing and supporting the ACA have requested permission to file written comments in the Florida lawsuit. These briefs focus on the Medicaid provision of the ACA, the individual mandate requirement and the economics of health insurance purchasing. They have been submitted by governors, legislators, consumer advocacy groups and professional groups. These briefs may be found [here](#). Some attorneys general, governors and other ACA opponents may continue to file briefs to express their resistance to ACA implementation.

While the Justice Department leads the legal fight in support of the constitutionality of the ACA, advocates can help show public opposition to these challenges. Here are some examples:

Online petitions that garner a high volume of signatures

In Washington state, FUSE, a progressive advocacy group working with Washington CAN!, gathered more than 17,000 signatures in three days [telling](#) Washington Attorney General Rob McKenna “not to sacrifice Washington’s health for partisan politics.”

Petitions that draw media coverage

Florida CHAIN in conjunction with Progress Florida, ran a campaign entitled, “Not in my name. Not on my dime.” The campaign used straight-forward messaging that spotlighted the duties of the attorney general as their consumer representative and his failure to support the needs of his constituents. They paired the petition with a media event where they rolled out a lengthy paper scroll filled with hundreds of signatures opposing Florida’s legal challenge to ACA. The letter to supporters may be found [here](#).

Sign-on Letters highlighting small business support

The New Jersey Main Street Alliance, a coalition of more than 650 small business owners, submitted a [letter](#) to the Governor in support of the ACA – highlighting that over 200 small businesses would be eligible for tax credits in 2010.

What to watch for?

Hearings on the Florida lawsuit begin mid-December 2010 and will probably move quickly, resulting in a ruling by mid-2011 by U.S. District Court Judge Roger Vinson. This will most likely be appealed to a higher court, pushing additional rulings until 2012.

Community Catalyst Resources

- This [one-pager](#) provides messaging, and summarizes the unfounded legal challenges.
- Additional background regarding the legal arguments may be found in this [document](#).
- We compiled an [attorneys general watch list](#), highlighting states that may join the legal challenges.

Other Helpful Resources

- ACA litigation blog – this website is both a wiki and a blog run by two Santa Clara University law professors. It is a good repository of all documentation related to the legal challenges in chronological order. Included on the site are all amicus briefs that have been filed to date both in support of and in opposition to the lawsuit.
<http://acalitigationblog.blogspot.com/>
- National Health Law Program (NHeLP) – NHeLP provides a list of all documents related to the legal challenges underway as well as a list of helpful resources. They keep a detailed timeline for each legal challenge.
<http://www.healthlaw.org/>
- National Conference of State Legislatures (NCSL) – the NCSL is tracking the legislative efforts, ballot initiatives and legal challenges related to health reform in all 50 states.
<http://www.ncsl.org/?tabid=18906>