

**No. 19-10011**

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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STATE OF TEXAS; STATE OF WISCONSIN; STATE OF ALABAMA; STATE OF ARIZONA; STATE OF FLORIDA; STATE OF GEORGIA; STATE OF INDIANA; STATE OF KANSAS; STATE OF LOUISIANA; STATE OF MISSISSIPPI, by and through Governor Phil Bryant; STATE OF MISSOURI; STATE OF NEBRASKA; STATE OF NORTH DAKOTA; STATE OF SOUTH CAROLINA; STATE OF SOUTH DAKOTA; STATE OF TENNESSEE; STATE OF UTAH; STATE OF WEST VIRGINIA; STATE OF ARKANSAS; NEILL HURLEY; JOHN NANTZ,

Plaintiffs-Appellees,

v.

UNITED STATES OF AMERICA; UNITED STATES DEPARTMENT OF HEALTH & HUMAN SERVICES; ALEX AZAR, II, SECRETARY, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES; UNITED STATES DEPARTMENT OF INTERNAL REVENUE; CHARLES P. RETTIG, in his Official Capacity as Commissioner of Internal Revenue,

Defendants-Appellants,

and

STATE OF CALIFORNIA; STATE OF CONNECTICUT; DISTRICT OF COLUMBIA; STATE OF DELAWARE; STATE OF HAWAII; STATE OF ILLINOIS; STATE OF KENTUCKY; STATE OF MASSACHUSETTS; STATE OF NEW JERSEY; STATE OF NEW YORK; STATE OF NORTH CAROLINA; STATE OF OREGON; STATE OF RHODE ISLAND; STATE OF VERMONT; STATE OF VIRGINIA; STATE OF WASHINGTON; STATE OF MINNESOTA,

Intervenor Defendants-Appellants.

*On Appeal from the United States District Court for the Northern District of Texas  
District Court No. 4:17-cv-00868*

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**BRIEF OF SMALL BUSINESS MAJORITY FOUNDATION  
AS *AMICUS CURIAE* IN SUPPORT OF APPELLANTS**

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## CERTIFICATE OF INTERESTED PARTIES

*State of Texas, et al. v. United States of America, et al.*, No. 19-10011.

The undersigned counsel of record certifies that the following listed persons and entities as described in the fourth sentence of Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

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The Small Business Majority Foundation, Inc. does not have a parent corporation. No publicly held company owns more than 10% of stock in the Small Business Majority Foundation, Inc.

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## STATEMENT OF INTEREST OF *AMICUS CURIAE*<sup>1</sup>

The Small Business Majority Foundation, Inc. is a national, nonpartisan organization founded and run by small business owners across the United States. The organization researches policy proposals for addressing small business needs, job creation, and maximizing business opportunities and competitiveness for small businesses across the United States. It also represents the interests of small businesses before Congress and state legislatures, the Executive Branch, and the courts. In recent years, it has focused on policies that address health care costs, which limit workforce mobility and disproportionately burden small businesses. *See, e.g.*, Br. for Small Bus. Majority Foundation, Inc., et al., *Dep't of Health and Human Servs., et al. v. Florida*, 567 U.S. 519 (2012); Br. for Small Bus. Majority Foundation, Inc., *King v. Burwell*, 135 S. Ct. 2480 (2015). The Foundation's considered view is that the reforms established by the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 (2010) ("ACA" or "the Act"), have provided substantial benefits for small businesses, their employees, and the self-employed, by providing a means of acquiring affordable health insurance. The Foundation writes as *amicus* here because allowing the district

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<sup>1</sup> No counsel for any party authored this brief in whole or in part, and no person or entity other than *amicus*, its members, or its counsel made a monetary contribution intended to fund the brief's preparation or submission. All parties have consented to the filing of this brief. *See* Fed. R. App. P. 29(a)(2), (4).

court's judgment to stand would seriously harm small businesses and their employees.

## **INTRODUCTION AND SUMMARY OF ARGUMENT**

In the United States, employment and access to affordable health insurance have historically been tightly linked. Before the enactment of ACA, this linkage pressured individuals to seek out and then stay put in jobs that provided affordable health insurance—a phenomenon known as “job lock”—because people clung to jobs with affordable health coverage even when they might have otherwise chosen to start businesses or pursue more attractive job opportunities with growing small businesses. Small businesses, in turn, long faced disproportionate costs, as compared to larger employers, in obtaining health coverage for their employees.

Several of the reforms adopted within ACA have mitigated these burdens by both enabling access to affordable health insurance irrespective of employment and by providing small businesses the opportunity to obtain comprehensive health care coverage for their employees at lower costs and with greater price stability than ever before. These measures have freed individuals to make life choices about employment and entrepreneurship without forgoing affordable health care, dramatically increased the insurance rates among the self-employed, and made it easier for small businesses to provide comprehensive health care coverage to employees and their families. Specifically, small businesses have benefitted from

the distinct reforms to the small group market, including exchanges where small businesses can select from health plans for their employees, and a tax credit for up to 50% of the employer share of health insurance premiums for certain small businesses.

The district court declared the entire Act invalid on the ground that a single provision—the minimum coverage provision—was rendered unconstitutional by the enactment of the Tax Cuts and Jobs Act of 2017, Pub. L. No. 115-97, 131 Stat. 2054 (2017). *Amicus* agrees with Appellants that this judgment was wrong. *Amicus* further agrees that Congress intended the Act as a whole—which spanned more than 900 pages, *Nat'l Fed'n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 539 (2012), and made many different reforms in distinct segments of the health insurance and health care markets—to be severable from the minimum coverage provision. *Amicus* writes to inform the Court about the many important benefits that the Act's various provisions confer on small businesses and the self-employed, and the harm that the Nation's small businesses—as well as the economy as a whole—will suffer if the district court's decision is affirmed.

## ARGUMENT

### **The Act’s Reforms Play An Essential Role In Lowering Health Care Costs For Small Businesses And Their Employees, Thereby Mitigating Job Lock.**

#### **A. Before ACA, Small Businesses and the Self-Employed Faced Disproportionately Large Health Care Costs, Creating Economically Inefficient Job Lock.**

Employer-sponsored health insurance has been an economic fixture in the United States since World War II. *See* David A. Hyman & Mark Hall, *Two Cheers for Employment-Based Health Insurance*, 2 Yale J. Health Pol’y L. & Ethics 23, 25–26 (2001) (describing the rise of employment-based coverage “fueled by federal labor and tax policy” and labor unions). Not only do “[a] majority of Americans rely on private insurance for health coverage,” U.S. Gov’t Accountability Off., GAO-12-166R, *Health Care Coverage: Job Lock and the Potential Impact of the Patient Protection and Affordable Care Act* 3 (2011) (hereinafter “GAO Report”), but “[t]he majority of privately insured Americans obtain their health insurance through their own or a family member’s employment,” Brigitte C. Madrian, *Employment-Based Health Insurance and Job Mobility: Is There Evidence of Job-Lock?*, 109 Q.J. Econ. 27, 27 (1994).

This linkage between employment and health insurance coverage creates negative spill-over effects. When employees “stay[] in jobs they might otherwise leave for fear of losing access to affordable health coverage”—whether because insurance is more expensive at the prospective job, does not cover a pre-existing

condition, or is not offered at all—economists refer to that phenomenon as “job lock.” GAO Report at 3. And health care-induced job lock has disproportionately hindered the development of small businesses. Why? Absent effective measures to spread risk that are non-employment based, both the self-employed and small businesses with few employees lack the ability to spread risk among large numbers of people. Before ACA, these sectors faced challenges in procuring affordable health coverage, which deterred individuals from moving freely to small business jobs or starting their own businesses.

Before many of ACA’s reforms took effect in 2014, small business employees and the self-employed comprised a disproportionate share of the working uninsured. In 2011 more than six in ten of the nation’s uninsured workers were self-employed or working at a company with fewer than 100 employees. Paul Fronstin, Emp. Benefit Research Inst., *Sources of Health Insurance and Characteristics of the Uninsured: Analysis of the March 2012 Current Population Survey* 15 (2012).<sup>2</sup> Small businesses were “less likely to offer their employees health coverage, citing the cost of coverage as a key reason.” GAO Report at 3. And when small businesses did offer insurance, it was more expensive. Small business employees typically paid “nearly 30 percent” of “the average share of . . . policy premiums,” as compared to employees of larger firms who pay “about 7

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<sup>2</sup> Available at <https://goo.gl/XxA8Yg>.

percent.” Cong. Budget Office, Econ. & Budget Issue Brief, *Effects of Changes to the Health Insurance System on Labor Markets* 1 (2009).

As a result, for the 24 million self-employed Americans and many employees of the country’s 5.8 million small businesses with employees, coverage options were both limited and undesirable before ACA’s reforms.<sup>3</sup> These individuals could either: (i) purchase health insurance in the individual market, paying a full-freight premium lacking both the employer subsidy of “more than 70 percent on average,” GAO Report at 3–4, and the favorable tax treatment long granted employer-sponsored coverage; or (ii) forgo health-insurance coverage altogether, see William Craig, *Four Reasons the Affordable Care Act Is a Boon to Entrepreneurs*, *Forbes* (June 17, 2014) (citing Gallup study showing that “one in four entrepreneurs went without health insurance in 2012”).<sup>4</sup> And those options applied only to workers who were able to obtain coverage; others could be excluded entirely, or be denied the coverage they most needed, based on exclusions for pre-existing conditions. See Elana Gordon, *Pre-Obamacare, Preexisting Conditions Long Vexed States and Insurers*, *Kaiser Health News* (Apr. 26, 2017).<sup>5</sup> Reflecting these limited options, in 2010 small business employees

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<sup>3</sup> See U.S. Census Bureau, *Nonemployer Statistics, NES Tables 2015*, available at <https://goo.gl/hKJTSo>; U.S. Census Bureau, *2015 SUB Tables, Data by Enterprise Employment Size*, available at <https://goo.gl/18gjNf>.

<sup>4</sup> Available at <https://goo.gl/xQU8Ts>.

<sup>5</sup> Available at <https://goo.gl/wjTCxP>.



were almost twice as likely to be uninsured as large business employees, and 30% of the self-employed were uninsured. *See* U.S. Small Bus. Admin., *Small Business Facts* (2012).<sup>6</sup>

This dearth of self-employed and small business coverage had undesirable effects both for individuals and the national economy as a whole. Nearly one-third of people responding to a research survey conducted before ACA was enacted had been harmed by job lock, which caused a 25% reduction in job mobility and in their freedom to choose among employment options, including starting a new business. *See* Madrian, *supra*, at 28–29, 52 (citing poll and conducting statistical analysis). As one pre-ACA commentator put it:

There's no shortage of sad stories about health insurance. But for pure frustration, nothing beats job lock: being frozen in a job you hate because leaving it means losing key health benefits. You're stuck because you have a bad knee, your daughter has diabetes or your wife has emphysema. No new insurer wants your family unless it can draw a big red circle around your maladies and refuse to cover everything inside.

Ellyn E. Spragins, *How to Beat Job Lock*, *Newsweek*, at 98 (Dec. 14, 1998).

And job lock does more than cause individual harm. Viewed in the aggregate, job lock also creates inefficiencies that ripple through the entire economy. “[I]f individuals who would like to move to more productive jobs are constrained to keep their current positions simply to maintain their health insurance,” that causes “[t]he productivity of the economy as a whole [to] suffer.”

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<sup>6</sup> Available at <https://goo.gl/rXsPVn>.

Madrian, *supra*, at 28. Concomitantly, “[e]conomic theory generally suggests that worker mobility . . . in turn promotes efficiencies in the labor market and provides benefits to the overall economy.” GAO Report at 3.

**B. The Act’s Reforms in the Individual and Small Group Markets Have Provided Critically Important Benefits to Small Businesses.**

Consistent with decades of congressional attention to mitigating job lock, *see, e.g., Geissal v. Moore Med. Corp.*, 524 U.S. 74, 79–80 (1998) (describing congressional efforts beginning in 1985 to give certain employees the ability to continue group coverage when they “might otherwise lose coverage upon . . . the termination of . . . employment”), several different ACA reforms have made it easier for people to obtain health coverage regardless of the size of their employer or any pre-existing conditions, freeing them to start new businesses or join smaller businesses. At the same time, other ACA programs operating in the distinct market for “small group” coverage have made it easier for small businesses to provide health coverage for their employees.<sup>7</sup> The combined upshot is that small business owners, their employees, and the self-employed alike have all benefitted significantly from the Act.

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<sup>7</sup> The group market involves employer-sponsored health insurance. *See* Kaiser Family Foundation, *Health Reform Glossary*, available at <https://goo.gl/n3J7AR> (entry for “Group Health Insurance”). The small group market is generally for employers with 2-50 employees, although the precise numbers can differ by State. *See id.* (entry for “Small Group Market”).

***1. ACA’s Individual-Market Reforms, Along with Tax Credits, Have Mitigated Job Lock and Enabled Greater Choice in Employment and Entrepreneurship.***

A constellation of separate and independent ACA reforms spurred a dramatic increase in health insurance coverage for small business employees and self-employed workers, delivering peace of mind and economic freedom to millions of Americans who are critical to the national economy. These reforms, like the formation of ACA’s exchanges and the associated premium tax credits, as well as the expansion of Medicaid in the States that have opted in, have meaningfully increased individual choice, job mobility, and flexibility. Some of them—like the extension of parental coverage to young adults—were implemented years before the minimum coverage provision, *see* ACA § 1004, but are nonetheless swept away by the district court’s inseverability ruling, with resulting harm to countless Americans. The considerable economic benefits of these separate reforms should be considered in analyzing what Congress would have intended for severability.

In particular, the individual exchanges have allowed millions more self-employed workers and small business employees to obtain health coverage than before the ACA’s passage. In total, over 5.7 million small business employees and self-employed workers are enrolled in the ACA individual marketplaces, and more than half of all ACA marketplace enrollees are small business owners, self-

employed people, or small business employees. Small Bus. Majority, *Number of Small Business Owners, Self-Employed People and Small Business Employees in the ACA Marketplaces*.<sup>8</sup> According to one study, the number of small business workers covered through insurance obtained in the individual market increased by 3.1 million from 2013 to 2015. Sarah Lueck, *Health Coverage Gains for Small-Business Workers at Risk*, Ctr. on Budget & Pol’y Priorities (Jan. 9, 2017).<sup>9</sup> Small business owners and the self-employed alone (excluding small business employees) made up one-fifth of the individual marketplace consumers and were almost three times more likely to purchase marketplace coverage as other consumers. Adam Looney & Kathryn Martin, *One in Five 2014 Marketplace Consumers Was a Small Business Owner or Self-Employed*, U.S. Dep’t of the Treasury: Treasury Notes Blog (Jan. 12, 2017).<sup>10</sup>

Separate and apart from the exchanges, the Act’s Medicaid expansion has also made coverage available to millions more small business employees, in those States that have chosen to participate. *See* Lueck, *supra* (estimating that 1.7 million small business employees gained coverage through the expansion of Medicaid); *see also* Lucas Puente, *Analysis: Small Business Professionals Insured at Higher Rate in Medicaid Expansion States*, Thumbtack J. (Mar. 27, 2017) (reporting that

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<sup>8</sup> Available at <https://goo.gl/d7Bzjk>.

<sup>9</sup> Available at <https://goo.gl/MYExdS>.

<sup>10</sup> Available at <https://goo.gl/2ef563>.

the uninsured rate for small business owners in Medicaid expansion states was 21%, compared to 34% in states that did not expand Medicaid).<sup>11</sup>

Collectively, these reforms reduced the uninsured rate for the tens of millions of people who own or work for small businesses. Of the 36.2 million people working at a business with fewer than 50 employees in 2015, 20% were uninsured—down from 31% in 2012. Kaiser Family Foundation, *The Uninsured: A Primer* 8–9 (2016).<sup>12</sup> In other words, more than a third of small business employees who were previously uninsured were able to get health insurance coverage. These numbers alone suggest that ACA has greatly reduced “job lock,” given the strong reliance of self-employed individuals on different coverage options made available by the Act. Workers are thus now freer to make employment choices without the burden of forgoing affordable health coverage, rather than being hamstrung based on pre-existing conditions or lack of affordable health coverage options.

Many anecdotes, as well, illustrate how ACA reforms have proved decisive for people looking to leave a job to create small businesses or to become self-employed. Autumn Theodore, for example, was able to leave a “corporate job that offered health benefits” to start a photography business due to the ability to access coverage under Ohio’s expansion of Medicaid. *See* Autumn Theodore, Letter to the

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<sup>11</sup> Available at <https://goo.gl/TUziwj>.

<sup>12</sup> Available at <https://goo.gl/65jjMH>.

Editor, *AHCA Would Not Be Good for Small Business*, Columbus Dispatch (June 29, 2017).<sup>13</sup> And for some young adults, the chance to stay on their parents' insurance for a few additional years has made all the difference. For example, Lauren Braun, because she was able to stay on her parents' insurance under ACA, left her job after receiving a \$100,000 Bill and Melinda Gates Foundation grant to make and distribute silicone bracelets that remind mothers of upcoming vaccinations in Peru. Shaila Dewan, *How Obamacare Could Unlock Job Opportunities*, N.Y. Times (Feb. 20, 2014).<sup>14</sup>

For other entrepreneurs, the Act's provisions regarding pre-existing conditions have proved crucial. Karin McKie, a small business owner in Chicago, reported that she has "endured several serious health issues, which now qualify as pre-existing conditions," and that without the Act, she "would have had huge financial strain, been forced to abandon [her] business to find employer-sponsored coverage and, in a worst-case scenario, declared bankruptcy." Karin McKie, Letter to the Editor, *Obamacare a Lifesaver for the Self-Employed*, Chicago Sun-Times (July 23, 2017).<sup>15</sup>

Many more have found ACA's exchanges, together with the tax credits, to be essential to enable them to start now-thriving small businesses. For example,

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<sup>13</sup> Available at <https://goo.gl/k9msKf>.

<sup>14</sup> Available at <http://goo.gl/LQosGU>.

<sup>15</sup> Available at <https://goo.gl/xViDqB>.

Rebecca Murray found herself unable to leave her job at a dialysis company because she risked losing coverage for her husband’s chronic spinal arthritis. Through the exchange, however, she was able to purchase health insurance for her family at a subsidized cost of \$535 per month, freeing her to start a company that helps other women care for their sick relatives. *See* Stephanie O’Neill, *Some Obamacare Enrollees Emboldened to Leave Jobs, Start Businesses*, Kaiser Health News (Apr. 29, 2014).<sup>16</sup> Similarly, Joshua Lapp—who has a congenital heart condition—was able to leave a full-time job with health benefits to start a three-partner urban planning firm due to the ability to obtain affordable coverage on ACA’s exchanges. *See* Harris Meyer, *Self-Employed Fear ACA Repeal Means ‘Job Lock’*, Modern Healthcare (Dec. 28, 2016).<sup>17</sup>

Whichever ACA program has enabled them to obtain individual coverage, many entrepreneurs have been able to use such coverage to bridge the gap until their businesses have grown enough to purchase small group coverage for their own employees. *See* Meyer, *supra* (describing a young entrepreneur who was able to stay on her parents’ coverage for two years, enabling her to grow her business, which “now employs eight people and provides them with group health insurance”).

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<sup>16</sup> Available at <https://goo.gl/pL9wdn>.

<sup>17</sup> Available at <https://goo.gl/SWvMTf>.

And the reforms have played an especially critical role in supporting the growth of microbusinesses, which include the self-employed and businesses with four or fewer employees. Taken together, these small businesses play a powerful role in the U.S. economy; the 22 million self-employed small business owners generate almost \$1 trillion in economic activity each year. *See* Corp. for Enter. Dev., *Microbusinesses: America's Unsung Entrepreneurs* 1 (2013).<sup>18</sup> In a survey, 74% of microbusiness owners reported that their businesses were their sole source of income, and more than half reported hiring an independent contractor in the past year. *See* Assoc. for Enter. Opportunity et al., *Opinion Poll: The Role of Micro Businesses in Our Economy* 4 (2012).<sup>19</sup> The ability of millions of Americans to leave their current employment and start new businesses, work as independent contractors, or pursue other endeavors on account of one or more of ACA's reforms is thus not only a victory for individual choice and productivity. Insurance reforms that free people to leave their jobs and start new businesses also result in increased productivity for the entire national economy.

***2. The Act's Small Group Reforms Have Helped Small Businesses Provide Affordable Health Benefits to Employees, Fostering Growth and Economic Opportunity.***

In addition to reforming the individual market, ACA made several important reforms to the small group market. Although these changes stand apart from the

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<sup>18</sup> Available at <https://goo.gl/uC8ZBn>.

<sup>19</sup> Available at <https://goo.gl/XhUPPF>.



individual market reforms (the individual market and small group risk pools are generally distinct, *see* 45 C.F.R. § 156.80), the small group reforms have also significantly benefitted small businesses and their employees. Relevant here, the Act has stabilized health care costs for small businesses that provide group coverage, reducing the disparity between large employers and small employers for those costs.

Before the Act was implemented, small businesses paid 18% more on average for health coverage than larger companies, usually for less comprehensive plans. Sean Lowry & Jane G. Gravelle, Cong. Research Serv., R43181, *The Affordable Care Act and Small Business: Economic Issues* 4 (2015).<sup>20</sup> The financial strain could be significant. In a survey of small business owners in a large U.S. market undertaken as ACA's reforms were first being implemented in 2014, nearly 37% of small businesses reported that they were "directing between 5 and 10 percent of their [annual] budgets to employee health benefits," and approximately 16% noted that they were spending "more than 15% of annual budgets on health insurance." Health & Disability Advocates, *Small Businesses and the Affordable Care Act* 2 (2014).<sup>21</sup> And small business owners employing skilled labor or operating in tight labor markets often had no choice but to bear these costs. Because health care benefits are significant to employees, ensuring

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<sup>20</sup> Available at <https://goo.gl/CcXgN4>.

<sup>21</sup> Available at <https://goo.gl/ZxjYbh>.

employee access to health care is a significant factor in determining a small business's ability to attract top talent and succeed. *See id.* at 3 (noting 71.8% of small business respondents reported that “providing health insurance benefits helps them recruit new employees”); Adela Luque et al., Upjohn Inst. Tech. Report No. 13-030, *The Effect of Employer Health Insurance Offering on the Growth and Survival of Small Business* 91 (2013) (“[H]ealth insurance offering firms . . . are . . . more likely to survive . . .”).

The Act's small group reforms, including the small group exchanges (known as “SHOP,” for “Small Business Health Options Program”), have significantly improved health care costs for small businesses (and their employees). Many small businesses offering health insurance coverage have seen their premium increases stabilize under the ACA, with premium increases dropping to their lowest level in years. Between 2008 and 2010, the average yearly premium increase in the small group market was 10.4%. U.S. Dep't of Health & Human Servs., *Fiscal Year 2017 Budget in Brief* 115 (2016).<sup>22</sup> But after ACA, that rate has dropped by half or more. *See id.* (reporting average yearly premium increase in small group market of 5.2% between 2011 and 2015); Sabrina Corlette et al., Urban Inst. & the Robert Wood Johnson Foundation, *Small Business Health Insurance and the ACA: Views from the Market 2017*, at 5 (2017) (reporting 3.1% annual increase for businesses with

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<sup>22</sup> Available at <https://goo.gl/kZ2RJw>.

fewer than 50 employees).<sup>23</sup>

Beyond this stabilization in the small group market, another ACA program designed for newer, smaller businesses provides a tax credit to small businesses with fewer than 25 employees. This credit, up to 50% of the employer's share of health insurance premiums purchased on the ACA exchanges for small group policies, is available for up to two consecutive years. *See* 26 U.S.C. § 45R. As one business owner reported, in addition to the "peace of mind" from "minimal" annual premium increases, he has received about \$2,200 per year for offering group health coverage to his employees, which "goes a long way toward reducing . . . costs." Ron Nelson, Opinion, *One View: Obamacare Helped Me to Provide Insurance for Employees, Family*, Reno Gazette J. (Jan. 23, 2017).<sup>24</sup> Programs like this, alongside other ACA reforms, not only increase the freedom for individuals to start or join small businesses, but also increase the opportunity for those individuals and businesses to thrive.

\* \* \* \* \*

Small business owners, their employees, and the self-employed have benefitted significantly from the many different reforms enacted as part of the Affordable Care Act, especially the creation of the individual marketplaces with tax credits, the optional expansion of Medicaid, and small group market reforms.

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<sup>23</sup> Available at <https://goo.gl/UTLVjN>.

<sup>24</sup> Available at <https://goo.gl/7YW9u7>.

Millions more working Americans, who are self-employed or employees of the Nation's small businesses, now have health insurance that they would not have had without the Act. The district court's decision takes away every single one of these programs that have improved lives and benefitted the economy, based solely on the court's (erroneous) holding that the minimum coverage provision must fall. This draconian remedy is not what Congress would have intended, and it will cause serious harm to America's small businesses and the self-employed.

### **CONCLUSION**

The judgment of the district court should be reversed.

April 1, 2019

Respectfully submitted,

s/Hyland Hunt

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## CERTIFICATE OF COMPLIANCE

The foregoing brief is in 14-point Times New Roman proportional font and contains 3,912 words, and thus complies with the type-volume limitation set forth in Rules 29(a)(5) and 32(a)(7)(B) of the Federal Rules of Appellate Procedure.

s/Hyland Hunt  
Hyland Hunt

April 1, 2019

**CERTIFICATE OF SERVICE**

I hereby certify that, on April 1, 2019, I served the foregoing brief upon all counsel of record by filing a copy of the document with the Clerk through the Court's electronic docketing system.

s/Hyland Hunt

Hyland Hunt