

Insight



Supreme Court Cites American Action Forum Amicus Briefs in Three Separate Oral Arguments

DOUGLAS HOLTZ-EAKIN | MARCH 29, 2012

The [American Action Forum's three Supreme Court amicus briefs](#) led by Forum President Douglas Holtz-Eakin and including Nobel Laureates and hundreds of health experts proved pivotal to the oral arguments held this week on the individual mandate, severability, and the Medicaid expansion. No other outside organization on the left or right was cited more frequently or at greater length. The Forum *amicus* briefs prompted questions and commentary from counselors on both sides of the case as well as five Supreme Court Justices: Chief Justice Roberts, Justice Kennedy, Justice Alito, Justice Scalia, and Justice Sotomayor.

The [American Action Forum's individual mandate brief](#) was first cited by Justice Alito on Tuesday during the oral argument on the constitutionality of the individual mandate (beginning on page 10 of the [argument transcript](#)). Justice Alito references the Forum's economic analysis, which shows that young, healthy individuals are the real target of the mandate and that these individuals will be forced to provide a huge subsidy to the insurance companies to pay for the cost of the Affordable Care Act's other provisions.

"The fact that the American Action Forum's individual mandate brief was cited during Supreme Court oral arguments should come as no surprise," said Doug Holtz-Eakin, President, American Action Forum and former Director of the Congressional Budget Office. "The 11th Circuit Court of Appeals cited our appellate *amicus* brief on the topic as justification for overturning the individual mandate; this analysis has become the primary target of the White House because it exposes the accounting gimmicks and flawed analysis used in a political effort to sell the individual mandate."

The [American Action Forum's severability brief](#) was again cited first by Justice Alito in Wednesday's oral arguments on the severability of the individual mandate (beginning on page 41 of the [argument transcript](#)). The reference to the Forum severability brief focused on the cost to the insurance market if the individual mandate or Medicaid expansion were struck down but the rest of the law remained. This issue drew considerable attention from Justice Roberts, Justice Kennedy and Justice Scalia who asked multiple follow-up questions on the issue.

"The American Action Forum has proven more influential in this case than any other policy organization," said Michael Ramlet, Healthcare Policy Director, American Action Forum. "No other think tank or policy group, partisan or non-partisan, could offer the analysis of the American Action Forum or garner stronger support among the nation's top economists."

The [American Action Forum's Medicaid brief](#) was cited during Wednesday afternoon's oral arguments on the coerciveness of the Medicaid expansion by Justice Sotomayor (beginning on page 7 of the [argument transcript](#)). The discussion focused on the budgetary analysis conducted by the American Action Forum on the state-by-state impact of losing federal Medicaid funding.