



# ZACH KLEIN

COLUMBUS CITY ATTORNEY

eNewsletter

Volume 1, Issue 3

## From the Desk of City Attorney Zach Klein

In this latest e-newsletter are updates on a couple of recent lawsuits filed by our office on behalf of the City of Columbus that we believe are important to protecting taxpayer dollars, as well as the basic rights of all our residents to have access to affordable, quality healthcare. We also filed the largest public nuisance lawsuit in the city’s history, both in terms of the number of property units involved and the amount of monetary damages we’re seeking. Last month, we also filed back-to-back complaints to shut down two more drug houses in two days, bringing our total of drug houses shut down by civil injunction proceedings to 13 this year, with more to come.

It’s my duty as an elected official to serve our entire community—and that especially means advocating for our most vulnerable residents. For me, it's more than just words: it’s an ingrained part of my belief system that is informed by personal experience.

Because my son was born prematurely, my wife and I spent many nights at Nationwide Children’s Hospital praying for him. We were not alone, nor was our experience unique. We saw countless families fearing for their kids, some of whom were born with pre-existing conditions, and others worrying about how they’d pay their medical bills without going bankrupt. For so many families in Columbus and across the country, the Affordable Care Act (ACA) took many of those fears away.

That’s why it’s so critical for us to work to preserve the protections created by the ACA, so that everyone has the opportunity to access affordable, high-quality health care. It's precisely why Columbus is leading a nationwide lawsuit to protect the ACA.

While some may argue this is a partisan issue, a [recent poll](#) by the independent [Kaiser Family Foundation](#) indicates that 75 percent of Americans believe it’s “very important” that the ACA’s protections for people with pre-existing conditions remain the law of the land. Real people in our community and all across the country are hurt by efforts to sabotage the ACA, and our office, along with our coalition of plaintiffs, believe we have a legal and moral obligation to hold accountable those who are not doing their constitutional duty to ensure that the laws of the United States are being faithfully executed.

October 2018



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## Protecting the Protections

In August, the City of Columbus, along with Chicago, Cincinnati and Baltimore, sued the federal government to stop what the [lawsuit](#) asserts to be the Trump administration's deliberate efforts to sabotage the Affordable Care Act and to force the administration to implement the law in good faith. The [130-page complaint](#) spells out in detail the intentional and unlawful dismantling of the ACA as a "death-by-a-thousand-cuts" through executive actions that have made health insurance significantly more expensive for families in Columbus and has contributed to a dramatic rise in the number of uninsured Americans. Recent reports indicate that [the average premium increased by 37 percent](#) on ACA exchanges in 2017 and are expected to [rise by double digits again this year](#), while the number of people lacking health insurance increased by [3.2 million](#) in just one year, from the end of 2016 to the end of 2017.



[Watch](#) the full press conference where Columbus Public Health Commissioner Dr. Mysheika Roberts and Columbus residents joined City Attorney Klein as he announced the lawsuit to protect the Affordable Care Act.

When the administration and their allies in Congress tried and failed to dismantle the ACA last year, the battle to keep pre-existing condition coverage was won and the administration was forced to retreat from their push for a full repeal. Instead, as the lawsuit details, they settled on an illegal, unilateral executive action plan to undermine the ACA. The federal government has worked to make it harder for people to acquire affordable, high-quality coverage by cutting funding to enrollment groups, nearly eliminating advertising for open enrollment (using public tax dollars to fund a negative ad campaign about the ACA), cutting the open enrollment period in half, and, now, promoting short-term junk plans that likely won't cover people when they're sick.

According to the city's lawsuit, the federal government is making healthcare coverage **more expensive and less accessible** by:

- Promoting insurance that does not comply with ACA requirements, including insurance that does not cover pre-existing conditions.
- Slashing funding for outreach strategies that have been proven to encourage healthy individuals to sign up for coverage.
- Misusing federal funds for advertising campaigns aimed at attacking the ACA and its exchanges, and spinning false narratives about the efficacy and success of the ACA
- Providing individuals and families with less time to choose a plan that is appropriate for them.
- Imposing unnecessary and onerous documentation requirements, making enrollment even harder.

These sabotage efforts directly hurt cities like Columbus. [Premiums are rising](#) and will result in more Columbus residents being uninsured or underinsured. City-subsidized health centers in Columbus saw almost 3,000 more uninsured patients last year. As the uninsured rate continues to increase, more and more city tax dollars will go towards paying for ambulance transports and other needs. [Ohio has the second-highest rate of drug overdose deaths](#) in the nation, second only to West Virginia, and reports indicate that Columbus averages close to 10 naloxone administrations a day.

As City Attorney Klein stated, "We don't turn our back on uninsured patients who seek care at our health centers, or who need treatment or transportation to a

hospital. As our city faces a devastating opioid epidemic, the services we offer may be more critical than ever. When our residents don't have insurance, our city ends up footing the bill. **2** That's why we're going to court."

## Civic Investment

Protecting tax dollars isn't, and never should be, a partisan issue, and the City of Columbus' joint lawsuit with the Ohio Attorney General's office in trying to save the Columbus Crew Soccer Club from packing up and leaving town is a great example of the bipartisan, inter-governmental cooperation we rarely see these days. Putting the greater good above self-interest should always come first in civic life and that's really what the #SaveTheCrew movement and the Crew lawsuit is all about. It has been a long and winding road since it was announced last year that Precourt Sports Ventures, the "operator/investor" of the Columbus Crew, and Major League Soccer (MLS) could potentially relocate the team elsewhere. On March 5, 2018, the City of Columbus and the State of Ohio filed their [lawsuit](#) to ensure that [Ohio Revised Code Section 9.67](#), the so-called "Modell Law," is legally enforced to protect the millions of dollars in both city and state taxpayer support that the Crew "willingly sought and accepted."

Over the years, the controlling interests of the team have received approximately \$5 million in state taxpayer funded improvements to parking facilities, as well as \$1.6 million in city taxpayer reimbursements for infrastructure improvements such as a new underground water line and new roadway upgrades. They also have leased land from the state for "a rate well below market value" for the last 20 years.

The lawsuit to keep the Crew in Columbus is much larger than simply supporting a team with a passionate fan base. Sports franchises foster civic pride, enhance a region's civic image, and can help spur greater economic development. According to [estimates](#), the original civic investment into Nationwide Arena and the Columbus Blue Jackets has generated \$744 million in private-sector development, as the value of real estate in the Arena District has increased from approximately \$100 million to more than \$1 billion. The Arena District also is home to some 1,000 residences and 10,000 jobs.

In March this year, it was announced that the *Bricker & Eckler LLP* law firm would provide legal counsel to the City of Columbus free-of-charge to help with the Crew litigation. In April, the City Attorney's office announced an innovative legal strategy to file a motion to toll, or pause, the six-month time period for a local investor to purchase the Crew, as outlined in state law.

On May 8th, the court granted the motion to toll, while also ordering a court-supervised negotiation process to determine if a local purchaser of the Crew could be identified. Precourt and MLS appealed this decision and subsequently lost, having their appeal dismissed in June. In August, the original trial court judge extended the city's motion to toll for another 44 days and ordered oral arguments on the defendants' motion to dismiss the lawsuit, which occurred a few weeks ago. Having prevailed in court at every step of the way, the City of Columbus and the State of Ohio await the judge's next ruling, which could happen any day now.



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## Community Action

Neighborhood safety is always our top priority, and within a week last month, the City Attorney's office not only filed two complaints to shut down two drug houses, but also filed the largest public nuisance lawsuit in the city's history.



The first complaint for preliminary and permanent injunctive relief was filed in the Franklin County Environmental Court to board up a duplex that had been converted into four apartment units in Hungarian Village on the city's south side. Narcotics detectives obtained evidence that both cocaine and heroin was being trafficked in all four apartment units at various different times beginning in 2016. The owner ultimately entered into a stipulated agreement with the City Attorney's office wherein the property was declared a public nuisance and will be boarded up for one year.

The next day, the court also granted the City Attorney's request for an *ex parte* temporary restraining order to immediately board up a Hilltop property that was the scene of at least 50 police runs for multiple incidents of assault, domestic disputes, shots fired, weapons violations, vandalism/criminal damaging and other illegal activity. When authorities executed a search warrant at the premises in late August, they found a large stockpile of weapons and live ammunition.

"Given the most recent spike in drug overdoses, this really is an 'all-hands-on-deck' type of moment not only for our local community, but for our society as a whole," said City Attorney Klein. "We always emphasize that we need to tackle the drug epidemic from all angles and using the statutory authority of civil court in order to shut down nuisance drug properties is one piece of the puzzle."



On September 19th, City Attorney Klein announced the largest public nuisance lawsuit on record in the City of Columbus, citing the owner of three large multi-building apartment complexes for an "extensive history" of violating the city's housing, nuisance abatement, and health, sanitation and safety codes. The complaint included 802 units located in the Mayfair Apartments, Hartford on the Lake, and Fitzroy Apartments. These properties are owned by three subsidiaries, all controlled by AMG Realty Group based in Skokie, Illinois.

City inspectors have issued orders on more than 150 code violations, including extensive water damage, an inoperable furnace, damaged walls and ceilings, mold growth, clogged drains, light fixtures hanging from wires, loose and missing handrails, bug, rodent, and roach infestations and a multitude of electrical issues such as bare and exposed wiring.

To help remedy this, the City Attorney set precedent in this case by seeking the most monetary damages ever levied against a property owner in Columbus. Previously, the city has issued notices of \$1000 daily fines against negligent property owners under a law enacted in 2014, but the mere threat of those fines has been enough to compel compliance in the past. This is the first case in which the City Attorney has gone to court seeking payment of the accrued fines, which currently stands at \$75,000 and counting.

## News and Notes

August 2018



The first of our free Community Legal Clinics, titled *The Law, Money, and You* was held last week. Featuring a short presentation with professional advice about money management and tips to spend less and save more, lawyers from *Bricker & Eckler, LLP* were on hand to offer advice regarding credit, debt collection, and other financial matters.



The clinics will take place on a quarterly basis featuring rotating topics and partnering law firms. The clinics will continue throughout 2019 in different areas of the city.

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It's hard to believe that Summer is already over, but here is a fond memory of City Attorney Klein hanging out at National Night Out in August.

City Attorney Klein was on hand to learn about the Franklin County Opioid Crisis Activity Levels (FOCAL) map project being funded by The Ohio State University. Attendees learned about the project goal of identifying treatment and recovery needs in Franklin County. A special thanks to the team from Ohio State, the Wexner Medical Center, Mighty Crow, and the Central Ohio Trauma System for helping in this effort.



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