

CALIFORNIA

Top prosecutor's past infuses California's battle with Trump

BY SUDHIN THANAWALA ASSOCIATED PRESS

JANUARY 10, 2019 12:07 PM



FILE - In this Oct. 10, 2018, file photo, California Attorney General Xavier Becerra discusses various issues during an interview with The Associated Press, in Sacramento, Calif. Becerra, California's top prosecutor, has been among the most aggressive of the Democratic state attorneys general who have fought President Donald Trump in court. Becerra said he looks to defend issues he championed as a 12-term Congressman and listens to what the president says to prepare for future litigation. **Rich Pedroncelli, File AP Photo**

SAN FRANCISCO – When President Donald Trump revoked protections for young immigrants known as "Dreamers," California's top prosecutor, Attorney General Xavier Becerra, turned to a member of his office's civil rights section to craft the state's legal response.

Michael Newman, who now heads that section, recalled days of strategizing and drafting with "no defined barrier of day and night." Becerra led meetings from a wooden conference table in his Sacramento office with about a dozen attorneys and advisers.

On Sept. 11, 2017, less than a week after the president's decision, California filed a federal lawsuit accusing the Trump administration of trying to push the 800,000 immigrants who benefited from the Obama-era Deferred Action for Childhood Arrivals program "back into the shadows of American life." The suit helped lead to the first nationwide court order requiring the U.S. Department of Homeland Security to continue DACA for existing enrollees.

The attorney general and members of his staff in recent interviews discussed the DACA lawsuit as part of a broader glimpse into the office's decision-making and structure to fight Trump administration policies. The U.S. Supreme Court is scheduled on Jan. 11 to consider taking up an appeal in the DACA case.

Becerra has been among the most aggressive of the Democratic state attorneys general who have battled Trump in court. Since former Gov. Jerry Brown appointed him to the job two years ago, Becerra has taken on the Trump administration in nearly 100 briefs and other legal actions, including 45 lawsuits filed mostly over immigration, the environment and health care and often joined by other attorneys general.

He has notched some significant victories, though many of the cases are still pending in court. But his office's operation against the Trump administration — who works on the cases, how much it costs and how the office approaches potential suits — has largely remained opaque.

Becerra, who handily won the Nov. 6 election for a full term, has no dedicated team of advisers and attorneys focused on the Trump administration. But some attorneys have worked on multiple suits challenging White House policies.

Immigration cases mostly come from the civil rights section. The environment section has led lawsuits against Trump administration decisions on water protections, fracking and greenhouse gas emissions, among other areas. A health care strike force created by Becerra defends the Affordable Care Act.

"It takes lots of conversations with those who understand the policy talking to those who understand the law and the architecture of the law to be able to come up then with the complaint," he said.

Still, only a tiny fraction of the 1,300 attorneys Becerra oversees are involved in the Trump lawsuits.

From July 2017 through June 2018, the attorney general's office spent more than \$9 million fighting the federal government, about 1 percent of its budget, according to figures from the office. That was up from about \$3 million the previous year, which covered only about six months of Trump's presidency.

Becerra described Brown as "very supportive" but said the final decision to sue was his unless he was bringing suit on behalf of another state agency or officeholder.

Brown left office Monday after completing his fourth term, meaning Becerra will now work with California's new Democratic governor, Gavin Newsom, who may be more aggressive in confronting the Trump administration.

During a recent interview at his Sacramento office, Becerra said he took the attorney general's job to protect what he expected to be an onslaught against many of the issues he championed as a 12-term Democratic congressman.

The office is dotted with photographs of Becerra with prominent Democrats — former Vice President Joe Biden, President Bill Clinton, Hillary Clinton. As a U.S. House member, Becerra pushed for DACA and worked on the Affordable Care Act. His office has filed several lawsuits to defend President Barack Obama's health care initiative.

"So many of the things that we're defending now in court we began in Congress," he said.

The office had a lawsuit almost completely ready to go when the Trump administration weakened requirements for birth control coverage under the Affordable Care Act in 2017, he

said. It filed the suit within hours of the U.S. Department of Health and Human Services' decision to issue the new rules, and won a preliminary injunction blocking the changes.

Two months before DACA's repeal, Becerra and 19 other attorneys general told the Trump administration in a letter that ending the program would harm businesses and reduce tax revenue.

The lawsuit he filed along with Maine, Maryland and Minnesota over DACA was not the first one challenging the end of the program. New York and several states sued earlier, as did the University of California, and Becerra said he considered joining the New York case. Becerra said his goal is to win, and sometimes waiting to sue is prudent.

"Oftentimes it doesn't mean speed. It means you do it deliberately," he said.

In Democrat-dominated California, where the party controls all statewide offices, what little criticism Becerra has faced has come mostly from Republicans.

His Republican general election opponent, former county judge Steven Bailey, argued Becerra was too quick to sue the administration and was wasting taxpayers' money.

"I mean, it's irresponsible — the fact that there's a tweet coming out of the White House doesn't require a lawsuit to be filed just because of that tweet," Bailey told The Associated Press.

Becerra embraced his fight against Trump, asserting in a campaign ad that he was defending California's values against a "war" by the administration. His office says the cost of fighting the White House is minuscule compared to the damage its policies would inflict on the state's economy.

On Nov. 8, a federal appeals court sided with Becerra and refused to lift U.S. District Judge William Alsup's January 2018 ruling blocking the Trump administration from immediately ending DACA.

The case is with the U.S. Supreme Court, where the recent ascension of Associate Justice Brett Kavanaugh locked in a conservative majority.

Kavanaugh's September hearing on sex assault allegations before a Senate committee raised concerns about the dozens of federal lawsuits pitting the Trump administration against Democratic-leaning states after Kavanaugh slammed the accusations as the work of Democrats.

Becerra said the new justice won't change his approach to the administration. An avid poker player as a young man, Becerra used a poker analogy to dismiss the notion that California may now be at a disadvantage.

"You could have a bad hand and you could still win, and you could have a great hand and you could still lose," he said. "You just have to know how to play your hand."