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14 IN THE UNITED STATES DISTRICT COURT
 15 FOR EASTERN DISTRICT OF CALIFORNIA

16 THE UNITED STATES OF AMERICA,

17 Plaintiff,

18 v.

19 THE STATE OF CALIFORNIA; EDMUND
 20 GERALD BROWN JR., Governor of
 California, in his official capacity; and
 21 XAVIER BECERRA, Attorney General of
 California, in his official capacity,

22 Defendants.
 23

Case No. 2:18-cv-00490-JAM-KJN

Hon. John A. Mendez

**PROPOSED INTERVENOR-
 DEFENDANTS' NOTICE OF
 SUBSEQUENT AUTHORITY**

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29 **pro hac vice application forthcoming*
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1 Proposed Intervenor-Defendants submit this Notice to inform the Court of a pertinent
2 case the Supreme Court decided after Intervenor-Defendants submitted their Motion to Intervene
3 and Proposed Opposition to the Motion for Preliminary Injunction. ECF No. 73-2. In *Murphy v.*
4 *Nat'l Collegiate Athletic Ass'n*, 2018 WL 2186168 (U.S. May 14, 2018) (attached for the Court's
5 convenience), the Supreme Court struck down a federal statute that prohibited States from
6 repealing their sports gambling laws. The Court held that Congress may not "issue direct orders
7 to the governments of the States," slip op. at 15, and that this principle applies to orders either
8 "to enact *or refrain from enacting* state law," slip op. at 19 (emphasis added); *see id.* at 18-19
9 (rejecting "empty" distinction between prohibitions and affirmative commands).

10
11 *Murphy* supports Proposed Intervenor-Defendants' arguments that (1) Congress cannot
12 prohibit States from limiting their participation in immigration enforcement, whether expressly
13 or impliedly, *see* PI Opp., ECF No. 73-2, at 6-12; (2) the United States' preemption theories fail
14 despite being phrased as prohibitions, rather than commands, ECF No. 73-2, at 8 & n.8, 12; (3)
15 Congress cannot require States to delegate decisions about immigration enforcement to line
16 officers, ECF No. 73-2, at 9; and (4) *Reno v. Condon*, 528 U.S. 141 (2000), did not recognize
17 any Tenth Amendment exception for direct orders to States to help administer federal programs
18 by sharing information, *compare* ECF No. 73-2, at 10 n.10, *with Murphy*, slip op. at 20
19 (discussing *Condon*).

22 Dated: May 18, 2018

Respectfully submitted,

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**pro hac vice application forthcoming*

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CERTIFICATE OF SERVICE

I hereby certify that on May 18, 2018, I electronically filed the foregoing Notice with the Clerk for the United States District Court for the Eastern District of California by using the CM/ECF system. A true and correct copy of this Notice has been served via the Court's CM/ECF system on all counsel of record.

/s/ Spencer E. Amdur
Spencer E. Amdur
Dated: May 18, 2018