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21 **UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

22 **UNITED STATES OF AMERICA,**

23 Plaintiff,

24 v.

25 **STATE OF CALIFORNIA, et al.,**

26 Defendants.

NO. 2:18-CV-00490-JAM-KJN

**PLAINTIFF’S BRIEF IN SUPPORT OF  
PERMISSIVE INTERVENTION OF COUNTY  
OF ORANGE**

Judge: Hon. John A. Mendez

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1 Plaintiff the United States of America supports County of Orange and Sandra Hutchens,  
2 Sheriff-Coroner for the County of Orange’s (“Orange County”) permissive intervention in this matter  
3 pursuant to Federal Rule of Civil Procedure 24(b). Permissive intervention is allowed in the interest of  
4 efficiency when a party “has a claim or defense that shares with the main action a common question of  
5 law or fact.” Fed. R. Civ. P. 24(b)(1)(B).  
6

7 The claims of Orange County share common legal and factual issues with those brought by the  
8 United States, and the United States supports the permissive intervention of Orange County. Orange  
9 County presents four unique interests in this case that we think warrant permissive intervention.

10 First, SB 54 and AB 103 uniquely impact and direct the actions of local government agencies  
11 like Orange County. *See* Cal. Gov’t Code § 7282(d) (“law enforcement official” subject to SB 54  
12 cooperation restrictions means “any local agency or officer of a local agency authorized to enforce  
13 criminal statute . . . or to operate jails or to maintain custody of individuals in jails”); § 7282(e) (“local  
14 agency” subject to SB 54 cooperation restrictions means “any city, county, city and county, special  
15 district, or other political subdivision of the state”); 7284.4(a) (“California law enforcement agency”  
16 barred from cooperation “means a state or local law enforcement agency” but “does not include the  
17 Department of Corrections and Rehabilitation”); § 12532 (AB 103 inspection regime applies to  
18 “county, local, or private locked detention facilities”). Indeed, AB 103 purports to regulate Orange  
19 County’s contractual relationships with the federal government. *Id.* § 12532; *see* Proposed Complaint,  
20 ECF 59-2, ¶ 42. Given that Orange County is the direct subject of these laws, we think permissive  
21 intervention is warranted.  
22  
23  
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25 Second, Orange County also has a unique perspective on the impact of SB 54 on the release of  
26 aliens with criminal convictions to the public and into a local community in California. Given that  
27 California claims that public safety is served by SB 54, it makes sense to also hear Orange County’s  
28

1 perspective.

2 Third, Orange County has identified a valid concern with losing federal grant funds based on  
3 being required to apply SB 54. *See* Proposed Complaint, ECF 59-2, ¶¶ 9-10; Mot. to Intervene of  
4 County of Orange, ECF 59, at 1-2. A similar concern has formed the basis for other litigation around  
5 the country and in the State.

6 Fourth, Orange County maintains that the Attorney General of California has threatened it with  
7 civil or criminal liability if it cooperates with federal immigration enforcement. Mot. to Intervene, ECF  
8 59, at 11.

9 In sum, Orange County has a unique interest in this case as the laws' direct subject, which  
10 warrants permissive intervention. As another governmental unit with its own set of concerns, it is in a  
11 unique position from both parties and the other group of proposed intervenors. Given that permissive  
12 intervention is appropriate, we do not think it is necessary to address intervention as of right.

13 For the foregoing reasons, the United States supports Orange County's permissive intervention  
14 in this matter.

1 DATED: May 22, 2018

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**CERTIFICATE OF SERVICE**

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I hereby certify that on May 22, 2018, I electronically transmitted the foregoing document to the Clerk’s Office using the U.S. District Court for the Eastern District of California’s Electronic Document Filing System (ECF), which will serve a copy of this document upon all counsel of record.

By: /s/ Francesca Genova  
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