

1 KEN PAXTON  
 Attorney General of Texas  
 2 JEFFERY C. MATEER  
 First Assistant Attorney General  
 3 BRANTLEY D. STARR  
 Deputy First Assistant Attorney General  
 4 SCOTT A. KELLER  
 Solicitor General  
 5 JAMES E. DAVIS  
 Deputy Attorney General for Civil Litigation  
 6 DAVID J. HACKER (CA Bar No. 249272; TX Bar No. 24103323)\*  
 Special Counsel for Civil Litigation  
 7 OFFICE OF THE ATTORNEY GENERAL  
 8 P.O. Box 12548 (MC 059)  
 Austin, Texas 78711-2548  
 9 Telephone: (512) 936-1700  
 Facsimile: (512) 474-2697

10 *Counsel for Proposed Amici Curiae*  
 11 *Texas, Alabama, Arkansas, Florida, Georgia, Indiana,*  
 12 *Kansas, Louisiana, Michigan, Missouri, Nebraska,*  
 13 *Nevada, Ohio, Oklahoma, South Carolina, West Virginia,*  
 14 *Governor Phil Bryant of the State of Mississippi, and*  
*Paul R. LePage, Governor of Maine.*

15 **UNITED STATES DISTRICT COURT**  
 16 **EASTERN DISTRICT OF CALIFORNIA**

17	<b>THE UNITED STATES OF AMERICA,</b>	)	Case No.: 2:18-cv-00490-JAM-KJN
		)	
18	Plaintiff,	)	<b>UNOPPOSED MOTION FOR LEAVE</b>
		)	<b>TO FILE BRIEF OF AMICI CURIAE</b>
19	v.	)	<b>THE STATES OF TEXAS, ALABAMA,</b>
		)	<b>ARKANSAS, FLORIDA, GEORGIA,</b>
20	<b>STATE OF CALIFORNIA, et al.,</b>	)	<b>INDIANA, KANSAS, LOUISIANA,</b>
		)	<b>MICHIGAN, MISSOURI, NEBRASKA,</b>
21	Defendants.	)	<b>NEVADA, OHIO, OKLAHOMA,</b>
		)	<b>SOUTH CAROLINA, WEST</b>
22		)	<b>VIRGINIA, GOVERNOR PHIL</b>
		)	<b>BRYANT OF THE STATE OF</b>
23		)	<b>MISSISSIPPI, AND PAUL R. LEPAGE,</b>
		)	<b>GOVERNOR OF MAINE, IN SUPPORT</b>
24		)	<b>OF PLAINTIFFS' MOTION FOR A</b>
		)	<b>PRELIMINARY INJUNCTION</b>
25		)	
		)	
26		)	
		)	
27		)	Date: No hearing per Min. Order,
		)	ECF No. 17
28		)	Judge: Hon. John A. Mendez

\*Designated Counsel for Service.

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that as soon as the matter may be heard, before the Honorable John  
3 A. Mendez, in Courtroom 6, 14th floor, of the U.S. District Court for the Eastern District of California,  
4 501 I Street, Sacramento, CA 95814, proposed amici curiae the States of Texas, Alabama, Arkansas,  
5 Florida, Georgia, Indiana, Kansas, Louisiana, Michigan, Missouri, Nebraska, Nevada, Ohio, Oklahoma,  
6 South Carolina, West Virginia, Governor Phil Bryant of the State of Mississippi, and Paul R. LePage,  
7 Governor of Maine (collectively, Proposed Amici), by and through undersigned counsel, will and hereby  
8 do respectfully move for leave to file their *Amicus* Brief in Support of Plaintiffs’ Motion for a  
9 Preliminary Injunction.

10 Counsel for Proposed Amici conferred with counsel for the parties, who have consented to this  
11 motion, and to the motion being submitted on the papers pursuant to L.R. 230(g). This motion is timely  
12 pursuant to this Court’s March 12 Minute Order requiring any amicus brief in support of Plaintiff to be  
13 filed by March 26, 2018. *See* ECF No. 17. The grounds for this motion follow:

14 The proposed brief of amici curiae, attached as Exhibit A to this motion, provides the perspective  
15 of several States on the provisions of California law at issue, to clarify for the Court the issues presented  
16 in this case. The proposed brief argues that AB450 is preempted, under *Arizona v. United States*, as an  
17 obstacle to the “careful balance struck by Congress with respect to the unauthorized employment of  
18 aliens; that AB103 is obstacle-preempted under *Arizona v. United States*, because it seeks to give state  
19 officials the “unilateral” power to second guess federal determinations about which aliens warrant  
20 removal; and that SB54’s judicial-warrant requirement is obstacle-preempted under *Arizona* because it  
21 undermines Congress’s criminal-alien detention scheme.

22 **DISCLOSURE STATEMENT**

23 Proposed Amici are the States of Texas, Alabama, Arkansas, Florida, Georgia, Indiana, Kansas,  
24 Louisiana, Michigan, Missouri, Nebraska, Nevada, Ohio, Oklahoma, South Carolina, West Virginia,  
25 Governor Phil Bryant of the State of Mississippi, and Paul R. LePage, Governor of Maine. No Proposed  
26 Amici is owned by any publicly held company.

1 **ARGUMENT**

2 “The district court has broad discretion regarding the appointment of amici.” *Hoptowit v. Ray*,  
3 682 F.2d 1237, 1260 (9th Cir. 1982), *abrogated on other grounds by Sandin v. Conner*, 515 U.S. 472  
4 (1995). “Federal district courts possess the inherent authority to accept amicus briefs.” *Padilla v. Beard*,  
5 No. 2:14-CV-1118 KJM CKD, 2017 WL 1364666, at \*5 (E.D. Cal. Apr. 14, 2017) (citing *Jamul Action*  
6 *Comm. v. Stevens*, No. 13–01920, 2014 WL 3853148, at \*5 (E.D. Cal. Aug. 5, 2014)). Amicus briefs  
7 from nonparties are regularly allowed when, as here, “the amicus has unique information or perspective  
8 that can help the court beyond the help that the lawyers from the parties are able to provide.” *Nat’l*  
9 *Petrochemical & Refiners Ass’n v. Goldstene*, No. CVF10- 163 LJO DLB, 2010 WL 2228471, at \*1  
10 (E.D. Cal. June 3, 2010).

11 Proposed Amici are the States of Texas, Alabama, Arkansas, Florida, Georgia, Indiana, Kansas,  
12 Louisiana, Michigan, Missouri, Nebraska, Nevada, Ohio, Oklahoma, South Carolina, West Virginia,  
13 Governor Phil Bryant of the State of Mississippi, and Paul R. LePage, Governor of Maine. States “bear[]  
14 many of the consequences of unlawful immigration,” which is why the Supreme Court recognized “the  
15 importance of immigration policy to the States.” *Arizona v. United States*, 567 U.S. 387, 397 (2012).  
16 And under *Arizona*, the States must rely on Congress and the INA to regulate which aliens may be  
17 present and work in their borders. *See id.* at 394-97.

18 In direct contravention of *Arizona*, California has attempted to override the federal government’s  
19 ability to enforce federal immigration law—by prohibiting private employers from voluntarily giving  
20 information to federal immigration officers (AB450) and by overseeing through investigations the  
21 immigration enforcement activities of federal agents (AB103). California may disagree with federal  
22 immigration policy—just as Arizona disagreed with federal immigration policy in *Arizona v. United*  
23 *States*. But if various Arizona laws designed to *enforce* federal immigration law were preempted in  
24 *Arizona* (as the Supreme Court held), then California’s laws designed to *interfere with or block* federal  
25 immigration enforcement are preempted here.  
26  
27  
28

**CONCLUSION**

For these reasons, the States respectfully request that the Court grant this motion without oral argument and order the Clerk to lodge the States’ proposed amici curiae brief on the docket.

Dated: March 26, 2018.

Respectfully submitted,

/s/David J. Hacker  
David J. Hacker  
Special Counsel for Civil Litigation  
CA Bar No. 249273  
TX Bar No. 24103323  
Attorney for Proposed *Amici*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1	STEVEN T. MARSHALL Attorney General of Alabama	KEN PAXTON Attorney General of Texas
2		
3	LESLIE RUTLEDGE Attorney General of Arkansas	JEFFERY C. MATEER First Assistant Attorney General
4		
5	PAMELA JO BONDI Attorney General of Florida	BRANTLEY D. STARR Deputy First Assistant Attorney General
6	CHRISTOPHER M. CARR Attorney General of Georgia	SCOTT A. KELLER Solicitor General
7		
8	CURTIS T. HILL, JR. Attorney General of Indiana	JAMES E. DAVIS Deputy Attorney General for Civil Litigation
9	DEREK SCHMIDT Attorney General of Kansas	DAVID J. HACKER (CA Bar No. 249272; TX Bar No. 24103323) Special Counsel for Civil Litigation
10		
11	JEFF LANDRY Attorney General of Louisiana	OFFICE OF THE ATTORNEY GENERAL P.O. Box 12548 (MC 009) Austin, Texas 78711-2548 Telephone: (512) 936-1700 Facsimile: (512) 474-2697
12	BILL SCHUETTE Attorney General of Michigan	
13		
14	JOSH HAWLEY Attorney General of Missouri	
15		
16	DOUG PETERSON Attorney General of Nebraska	
17	ADAM PAUL LAXALT Attorney General of Nevada	
18		
19	MICHAEL DEWINE Attorney General of Ohio	
20	MIKE HUNTER Attorney General of Oklahoma	
21		
22	ALAN WILSON Attorney General of South Carolina	
23		
24	PATRICK MORRISEY Attorney General of West Virginia	
25	PAUL R. LEPAGE Governor of Maine	
26		
27	PHIL BRYANT Governor of Mississippi	
28		

**PROOF OF SERVICE**

I hereby certify that on March 26, 2018, I filed the foregoing document with the Clerk of the Court via CM/ECF, which automatically sends notice of the filing to all counsel of record. I declare under 28 U.S.C. § 1746 that the above is true and correct.

Executed on March 26, 2018 at Austin, Texas.

/s/David J. Hacker  
David J. Hacker  
Special Counsel for Civil Litigation  
CA Bar No. 249273  
TX Bar No. 24103323  
Attorney for Proposed *Amici*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28