

Exhibit 1

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9
10 **UNITED STATES DISTRICT COURT**
11 **EASTERN DISTRICT OF CALIFORNIA**

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 STATE OF CALIFORNIA; EDMUND
GERALD BROWN JR., *Governor of*
16 *California, in his Official Capacity;* and
XAVIER BECERRA, *Attorney General of*
17 *California, in his Official Capacity,*

18 Defendants.

19
20 COUNTY OF ORANGE, *a political sub-*
division of the State of California;
21 SANDRA HUTCHENS, Sheriff-
Coroner for the County of Orange,

22 Plaintiffs in Intervention,

23 v.

24 STATE OF CALIFORNIA; EDMUND
GERALD BROWN JR., *Governor of*
25 *California, in his Official Capacity;* and
26 XAVIER BECERRA, *Attorney General of*
California, in his Official Capacity,

27 Defendants.

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

**[PROPOSED] COMPLAINT
IN INTERVENTION**

Date: TBD
Time: TBD
Ctrm.: Courtroom 6, 14th floor
United States District Court,
Robert T. Matsui Courthouse,
501 I Street,
Sacramento, California 95814

1 Plaintiffs in Intervention, COUNTY OF ORANGE, a political sub-division of the
2 State of California, and SANDRA HUTCHENS, Sheriff-Coroner for the County of
3 Orange, by and through their undersigned counsel, hereby intervene in this civil action
4 for declaratory and injunctive relief, and allege as follows:

5 **PRELIMINARY STATEMENT**

6 1. In this action, COUNTY OF ORANGE (hereafter “County”) and SANDRA
7 HUTCHENS, Sheriff-Coroner for the County of Orange (hereafter “Sheriff”), seek to
8 join the United States to obtain from this Court a declaration invalidating and
9 preliminarily and permanently enjoining the enforcement of certain provisions of
10 California law. These provisions are preempted by federal law and impermissibly
11 discriminate against the United States, and therefore violate the Supremacy Clause of the
12 United States Constitution. They also interfere with the ability of local entities and law
13 enforcement to ensure public safety for their residents. The United States undoubtedly
14 has preeminent authority to regulate immigration matters. This authority derives from
15 the United States Constitution and numerous acts of Congress. California has no
16 authority to enforce laws that obstruct or otherwise conflict with, or discriminate against,
17 federal immigration enforcement efforts.

18 2. This lawsuit challenges two California statutes that reflect a deliberate
19 effort by California to obstruct the United States’ enforcement of federal immigration
20 law, to impede consultation and communication between federal and state and local law
21 enforcement officials, and to interfere with contracts between federal and local entities
22 and law enforcement officials to house immigration detainees in local jail systems.

23 3. The first statute, Assembly Bill 103 (“AB 103”), creates an inspection and
24 review scheme that requires the Attorney General of California to investigate the
25 immigration enforcement efforts of federal agents and to inspect the local jail facilities
26 being utilized for detention of immigration detainees. The second statute, Senate Bill 54
27 (“SB 54”), which includes the “California Values Act,” limits the ability of state and
28 local law enforcement officers to provide the United States with basic information about

1 individuals who are in their custody and are subject to federal immigration custody, or to
2 transfer such individuals to federal immigration custody. It also limits the ability of
3 local jurisdictions to contract with federal authorities to detain illegal aliens pending
4 immigration hearings. Further, it interferes with the extension and renewal of contracts
5 between local entities and the federal immigration authorities to provide housing for
6 immigration detainees.

7 4. The provisions of state law at issue have the purpose and effect of making it
8 more difficult for federal immigration officers to carry out their responsibilities in
9 California and for local jurisdictions to cooperate with federal officers to meet those
10 responsibilities. The Supremacy Clause does not allow California to obstruct the United
11 States' ability to enforce laws that Congress has enacted or to take actions entrusted to it
12 by the United States Constitution. Accordingly, the provisions at issue here are invalid.

13 JURISDICTION AND VENUE

14 5. The Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and
15 1345.

16 6. Venue is proper in this jurisdiction under 28 U.S.C. § 1391(b) because
17 Defendants reside within the Eastern District of California and because a substantial part
18 of the acts or omissions giving rise to this Complaint arose from events occurring within
19 this judicial district.

20 7. The Court has the authority to provide the relief requested under the
21 Supremacy Clause, U.S. Const. art. VI, cl. 2, as well as 28 U.S.C. §§ 1651, 2201, and
22 2202, and its inherent equitable powers.

23 PARTIES

24 8. Plaintiff, the United States, regulates immigration under its constitutional
25 and statutory authorities, and it enforces the immigration laws through its Executive
26 agencies, including the Departments of Justice, State, and Labor, and the Department of
27 Homeland Security (DHS) including its component agencies U.S. Immigration and
28 Customs Enforcement (ICE), and U.S. Customs and Border Protection (CBP).

1 9. Plaintiff in intervention the County of Orange, California, is a political
2 subdivision of the State of California. The highest body to perform the legislative and
3 executive functions on behalf of the County is the Board of Supervisors (hereinafter
4 “Board”). Upon assuming office each Board member is required to take an oath to
5 support and defend the Constitution of the United States and the Constitution of the State
6 of California against all enemies, foreign and domestic; and to bear true faith and
7 allegiance to the Constitution of the United States and the Constitution of the State of
8 California. Further, in order to obtain federal grants and federal funds, the County has
9 on many occasions pledged grant assurances that it will follow all federal laws. The
10 County through its Board of Supervisors took an official position against the passage of
11 the state laws that are the subject of this complaint.

12 10. Plaintiff in intervention Sandra Hutchens, Sheriff-Coroner for the County of
13 Orange, is a State Constitutional Officer and a County Officer under California law and
14 has authority to operate the County jails and to exercise law enforcement police powers
15 on behalf of the State. In order to assume office the Sheriff is required to take an oath to
16 support and defend the Constitution of the United States and the Constitution of the State
17 of California against all enemies, foreign and domestic; and to bear true faith and
18 allegiance to the Constitution of the United States and the Constitution of the State of
19 California. Further, in order to obtain federal grants and federal funds, the Sheriff has on
20 many occasions pledged grant assurances that her department will follow all federal
21 laws. The Sheriff took a position against the passage of the state laws that are the
22 subject of this complaint.

23 11. Defendant State of California is a state of the United States.

24 12. Defendant Edmund Gerald Brown Jr. is the Governor of the State of
25 California and is being sued in his official capacity.

26 13. Defendant Xavier Becerra is Attorney General for the State of California
27 and is being sued in his official capacity.

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FEDERAL IMMIGRATION LAW

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2 14. The Constitution affords Congress the power to “establish an uniform Rule
3 of Naturalization,” U.S. Const., art. I § 8, cl. 4, and to “regulate Commerce with foreign
4 Nations,” U.S. Const., art. I § 8, cl. 3, and affords the President of the United States the
5 authority to “take Care that the Laws be faithfully executed.” U.S. Const., art. II § 3.

6 15. The Supremacy Clause of the Constitution mandates that “[t]his
7 Constitution, and the Laws of the United States which shall be made in Pursuance
8 thereof . . . shall be the supreme Law of the Land . . . any Thing in the Constitution or
9 Laws of any State to the Contrary notwithstanding.” U.S. Const., art. VI, cl. 2. Thus, a
10 state enactment is invalid if it “stands as an obstacle to the accomplishment and
11 execution of the full purposes and objectives of Congress,” *Hines v. Davidowitz*, 312
12 U.S. 52, 67 (1941), or if it “discriminate[s] against the United States or those with whom
13 it deals,” *South Carolina v. Baker*, 485 U.S. 505, 523 (1988).

14 16. Based on its enumerated powers and its constitutional power as a sovereign
15 to control and conduct relations with foreign nations, the United States has broad
16 authority to establish immigration laws, the execution of which the States cannot
17 obstruct or discriminate against. *See Arizona v. United States*, 567 U.S. 387, 394-95
18 (2012); *accord North Dakota v. United States*, 495 U.S. 423, 435 (1990) (plurality); *id.*
19 at 444-47 (Scalia, J., concurring).

20 17. Congress has exercised its authority to make laws governing the entry,
21 presence, status, and removal of aliens within the United States by enacting various
22 provisions of the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*, and
23 other laws regulating immigration.

24 18. These laws codify the Executive Branch’s authority to inspect, investigate,
25 arrest, detain, and remove aliens who are suspected of being, or found to be, unlawfully
26 in the United States. *See* 8 U.S.C. §§ 1182, 1225, 1226, 1227, 1228, 1231, 1357.

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1 19. Congress has also codified basic principles of cooperation and comity
2 between state and local authorities and the United States. For example, federal law
3 contemplates that removable aliens in state custody who have been convicted of state or
4 local offenses will generally serve their state or local criminal sentences before being
5 subject to removal, but that they will be taken into federal custody upon the expiration of
6 their state prison terms. *See id.* §§ 1226(c), 1231(a)(1)(B)(iii), (a)(4).

7 20. “Consultation between federal and state officials is an important feature of
8 the immigration system.” *Arizona*, 567 U.S. at 411. Congress has therefore directed that
9 a federal, state, or local government entity or official may not prohibit, or in any way
10 restrict, any government entity or official from sending to, or receiving from, DHS
11 “information regarding the citizenship or immigration status of an individual.” 8 U.S.C.
12 § 1373(a); *see* 8 U.S.C. § 1644 (same); *see also* 8 U.S.C. § 1357(g)(10)(A) (providing
13 for state and local “communicat[ion] with [DHS] regarding the immigration status of
14 any individual, including reporting knowledge that a particular alien is not lawfully
15 present in the United States”). Congress also authorized states and localities “to
16 cooperate with the [Secretary] in the identification, apprehension, detention, or removal
17 of aliens not lawfully present in the United States.” *Id.* § 1357(g)(10)(B).

18 21. Federal law also explicitly recognizes the United States’ authority to
19 “arrange for appropriate places of detention for aliens detained pending removal or a
20 decision on removal,” including the lease or rental of state, local, and private facilities.
21 *See* 8 U.S.C. § 1231(g); *accord* 8 U.S.C. § 1103(a)(11).

22 22. Federal regulation provides that “[n]o person, including any state or local
23 government entity or any privately operated detention facility, that houses, maintains,
24 provides services to, or otherwise holds any detainee on behalf of [DHS] (whether by
25 contract or otherwise), and no other person who by virtue of any official or contractual
26 relationship with such person obtains information relating to any detainee, shall disclose
27 or otherwise permit to be made public the name of, or other information relating to, such
28 detainee. Such information shall be under the control of [DHS] and shall be subject to

1 public disclosure only pursuant to the provisions of applicable federal laws, regulations
2 and executive orders.” 8 C.F.R. § 236.6.

3 25. DHS, through ICE and CBP, performs a significant portion of its law
4 enforcement activities in California. In Fiscal Year 2017, ICE’s Enforcement and
5 Removal Operations (ERO) apprehended 20,201 aliens in California alone, or roughly
6 14% of the aliens apprehended nationwide. Thus far in 2018, ICE ERO has apprehended
7 8,588 aliens in California, or roughly 14% of the aliens apprehended nationwide. Of
8 those aliens apprehended nationwide in 2016, 2017, and thus far in 2018, 92%, 90%, and
9 87% respectively, were criminal aliens. In Fiscal Year 2017, 41,880 aliens were detained
10 in California. And CBP is responsible for enforcing the immigration laws at ports of
11 entry and areas near the border in California, including apprehending recent entrants
12 with criminal convictions or who are national security concerns, and patrolling the
13 border for narcotics. It is in the interest of the County of Orange, the Sheriff, and the
14 citizens of Orange County to cooperate with federal authorities to keep criminal aliens
15 off the streets of our local communities.

16 CALIFORNIA PROVISIONS

17 Inspection and Review of Immigration Detention Facilities (AB 103)

18 26. Under longstanding California law, “local detention facilities” are subject to
19 biennial inspections concerning health and safety, fire suppression preplanning,
20 compliance with training and funding requirements, and the types and availability of
21 visitation. Cal. Penal Code § 6031.1(a). The law defines “local detention facilities” as
22 any city, county, or regional facility in which individuals are confined for more than 24
23 hours, and includes private facilities (though it excludes certain facilities for parolees,
24 treatment and restitution facilities, community correctional centers, and work furlough
25 programs). *Id.* § 6031.4.

26 27. On June 27, 2017, California enacted Assembly Bill 103 (AB 103). Section
27 12 of AB 103 added Section 12532 to the California Government Code.

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1 28. Rather than subject facilities housing civil immigration detainees to the
2 inspection scheme deemed sufficient for other detention facilities, the statute imposes a
3 new set of requirements specific to facilities housing immigration detainees. In
4 particular, Section 12532(a) requires the California Attorney General or his designee “to
5 engage in reviews of county, local, or private locked detention facilities in which
6 noncitizens are being housed or detained for purposes of civil immigration proceedings
7 in California.”

8 29. The statute is not limited to an inspection of facilities. The law also requires
9 the California Attorney General or his designee to examine the “due process provided”
10 to civil immigration detainees, and “the circumstances around their apprehension and
11 transfer to the facility.” Cal. Gov’t Code § 12532(b). Section 12532(c) instructs that the
12 California Attorney General or his designee “shall be provided all necessary access for
13 the observations necessary to effectuate reviews required pursuant to this section,
14 including, but not limited to, access to detainees, officials, personnel, and records.”

15 30. DHS, through ICE, has entered into contracts for detention services with
16 private entities, intergovernmental services agreements (IGSAs) with county, city, or
17 local government entities in California, and intergovernmental agreements (IGAs) with
18 the U.S. Marshals service that provide ICE with guaranteed housing for ICE detainees as
19 needed. ICE currently has twenty active contracts, IGSAs or IGAs, in California and
20 regularly uses nine detention facilities in California to house civil immigration detainees
21 in ICE custody. Included in those active contracts is a Five-Year Immigration and
22 Customs Enforcement Detainee Agreement for the period of July 20, 2015 through July
23 19, 2020, approved by the County of Orange Board of Supervisors and the Sheriff-
24 Coroner on July 14, 2015 and amended on May 9, 2017 and August 22, 2017. This
25 agreement provides for 958 beds in the County of Orange jail system reserved for ICE
26 detainees. This agreement provides revenue to the County of Orange in the range of
27 \$22,000,000 to \$27,000,000 per year.

28 //

1 31. Information obtained or developed as a result of an agreement with the
2 detention facility are federal records under the control of ICE for purposes of disclosure
3 and are subject to disclosure only pursuant to applicable federal information laws,
4 regulations, and policies, including but not limited to the Freedom of Information Act, 5
5 U.S.C. § 552 *et seq.*, and 8 C.F.R. § 236.6.

6 32. On or about November 16, 2017, Defendant Becerra initiated via letter a
7 request to inspect various ICE detention facilities, including the Theo Lacy Facility and
8 the James A. Musick Facility, both of which are part of the County of Orange jail
9 system, as well as a request to inspect DHS documents concerning aliens detained in
10 these locations.

11 33. The Theo Lacy Branch Jail and the James A. Musick Branch Jail have both
12 been inspected since the law's passage. In November, 2017, the Sheriff and the office of
13 County Counsel received correspondence from the California Attorney General's Office
14 stating that they intended to review the areas of Theo Lacy and Musick Jails where
15 immigration detainees are housed and to interview detainees and review detainee
16 records, as required by AB 103. The Sheriff's Department notified ICE of this review.
17 ICE sent correspondence to the Sheriff "remind[ing] [OCSD] of [its] obligations under
18 the intergovernmental service agreement (IGSA)" with ICE. ICE objected to the OCSD
19 allowing the Attorney General's Office access to the detainee areas and the detainees
20 without prior approval by ICE, and objected to OCSD providing any requested
21 documentation and detainee records to the Attorney General's Office. The Attorney
22 General's review under AB 103 put the Sheriff in the untenable position of either (1)
23 breaching the agreement with ICE, or (2) denying the Attorney General access to the
24 jails and the immigration detainees. Ultimately, the Sheriff allowed the Attorney
25 General's review of the jails, which took place on December 13, 2017 and December 14,
26 2017. The Sheriff's Department is waiting for a report from the Attorney General's
27 Office regarding this review. If the report directs the Sheriff to take certain steps
28 regarding the immigration detainees, these directives could lead to further interference

1 with the agreement with ICE.

2 34. California does not require any local detention facility to comply with
3 section 12532's heightened inspections regime when it houses detainees for other federal
4 or California entities. AB 103's requirements apply only when local detention facilities
5 house federal civil immigration detainees.

6 35. AB 103 thus requires the California Attorney General to investigate the law
7 enforcement efforts of federal agents engaged in apprehending and transferring aliens, to
8 assess the "due process" provided to those aliens and the "circumstances around their
9 apprehension and transfer to the facility," and to assess the law enforcement decisions of
10 personnel under contract to the United States, as well as records of unspecified scope.
11 The statute thus commands an improper, significant intrusion into federal enforcement
12 of the immigration laws. California has no lawful interest in investigating federal law
13 enforcement efforts. These provisions violate the Supremacy Clause by, among other
14 things, constituting an obstacle to the United States' enforcement of the immigration
15 laws, discriminating against the United States, and interfering with the role of local law
16 enforcement in that process as authorized by Congress.

17 **Restrictions on State and Local Cooperation with Federal Officials (SB 54)**

18 36. On October 5, 2017, the Governor signed into law the Senate Bill 54 (SB
19 54), which includes the "California Values Act," effective January 1, 2018.

20 37. SB 54 limits state and local cooperation with federal immigration
21 enforcement in a number of ways. New Section 7284.6 prohibits state and local law
22 enforcement officials, other than employees of the California Department of Corrections,
23 from, among other things: "[p]roviding information regarding a person's release date or
24 responding to requests for notification by providing release dates or other information,"
25 Cal Gov't Code § 7284.6(a)(1)(C); providing "personal information," including (but not
26 limited to) an individual's home address or work address, *Id.* § 7284.6(a)(1)(D); and
27 "[t]ransfer[ring] an individual to immigration authorities," *Id.* § 7284.6(a)(4).

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1 38. These provisions contain limited exceptions. State and local law
2 enforcement may share with the United States “information regarding a person’s release
3 date” or respond “to requests for notification by providing release dates or other
4 information,” but only where an individual subject to such information sharing has been
5 convicted of a limited subset of crimes, or where the information is available to the
6 public. Cal. Gov’t Code §§ 7282.5(a), 7284.6(a)(1)(C). Personal information also may
7 be shared only if it is available to the public. *Id.* § 7284.6(a)(1)(D). State and local law
8 enforcement agencies may “[t]ransfer an individual to immigration authorities” only if
9 the United States presents a “judicial warrant or judicial probable cause determination,”
10 or the individual in question has been convicted of one of a limited set of enumerated
11 felonies or other serious crimes. Cal. Gov’t Code §§ 7284.6(a)(4), 7282.5(a).

12 The limited subset of criminal violations does not match federal law governing
13 what may serve as the predicate for inadmissibility or removability, including listing a
14 set of crimes more narrow than those that render an alien removable. *See* 8 U.S.C. §§
15 1182(a)(2), 1227(a)(2). And it does not match the set of criminal offenses that require
16 the federal government to detain such aliens upon their release from state or local
17 custody. *Id.* § 1226(c). Under the California Values Act law enforcement is unable to
18 cooperate or communicate with federal immigration authorities in many instances where
19 the public would be placed at risk. The California Values Act generally requires as a
20 precursor to any cooperation or communication with federal immigration authorities that
21 the alien be convicted. This requirement puts the citizens of Orange County at great risk
22 as evidenced by offenses that have been deemed so severe that Congress has directed the
23 Attorney General to detain the alien based upon reasonable suspicion of committing that
24 offense irrespective of a conviction. Terrorist activities, member of terrorist
25 organization, association with terrorist organizations, and human trafficking are all
26 offenses in which the U.S. Attorney General is directed to detain the alien if either the
27 Attorney General, the Secretary of Homeland Security, or the Secretary of State knows
28 or has reason to believe the alien is committing or has committed these offenses. 8

1 U.S.C.A. § 1182(a)(2)(h); 1182(a)(3)(B); see also 8 U.S.C.A. § 1182(a)(2)(c) (controlled
2 substance traffickers); 8 U.S.C.A. § 1182(a)(2)(i) (money laundering). Because the
3 California Values Act generally requires a conviction law enforcement may not
4 cooperate or communicate with federal immigration authorities when they know or have
5 reason to know the alien is involved in these offenses, thus jeopardizing the citizens of
6 Orange County.

7 In addition, Congress has provided a list of crimes that are deemed so severe that
8 the Attorney General is directed to take the convicted alien into custody after the alien
9 serves their state or local criminal offenses. 8 U.S.C.A. § 1226(c) An example of
10 instances in which convicted aliens may not be reported under the California Values Act
11 but would fall under 8 U.S.C.A. § 1226(c) would be non-felony drug offenses, non-
12 felony human trafficking offenses, drug abusers and addicts, espionage, sabotage,
13 treason and sedition, crimes of moral turpitude, foreign government officials who have
14 committed particularly severe violations of religious freedom, aliens involved in serious
15 criminal activity who have asserted immunity from prosecution, and engaging in
16 prostitution. Furthermore, even under the exceptions listed under the California Values
17 Act Government Code § 7282.5 (a)(3)(A)-(Z), if the individual is convicted of a
18 misdemeanor for any of these crimes listed in (A)-(Z) and five years have passed, then
19 local law enforcement shall not disclose or cooperate with immigration authorities.
20 Similarly, if the individual is convicted of a felony for any of these crimes and 15 years
21 have passed, then local law enforcement shall not disclose or cooperate with
22 immigration authorities. The federal statute does not have a time cut off for any of these
23 types of convictions, making the exceptions provided in California Values Act much
24 narrower in its application. The California statute does not take into account that a
25 person who is still a danger to society may have served a prison term that coincides with
26 the five year or fifteen year period, and may have recently been released with no track
27 record of rehabilitation.

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1 39. Upon information and belief, California law does not impose these
2 restrictions on other forms of information sharing on other topics, nor does it restrict
3 transfers of individuals to other law enforcement agencies in this way.

4 40. These provisions impermissibly prohibit even the most basic cooperation
5 with federal officials. As noted above, federal law contemplates that criminal aliens in
6 state custody who may be subject to removal will complete their state or local sentences
7 first before being detained by the United States, but that federal immigration detention
8 for immigration proceedings or for removal will begin upon the alien's release from
9 state custody. 8 U.S.C. § 1226(c); § 1231(a)(4). Additionally, federal law contemplates
10 that DHS will be able to inspect all applicants for admission, and take all appropriate
11 action against those found to be inadmissible to the United States, even those that may
12 have been transferred to the custody of state and local law enforcement pending such a
13 state and local prosecution. *See* 8 U.S.C. §§ 1182, 1225(b)(2); 8 C.F.R. § 235.2. And, to
14 facilitate coordination between state and local officials and the United States, Congress
15 expressly prohibited any federal, state, or local government entity or official from
16 prohibiting, or in any way restricting, any government entity or official from sending to,
17 or receiving from, DHS "information regarding the citizenship or immigration status of
18 an individual." 8 U.S.C. § 1373(a); *see also* 8 U.S.C. § 1644. Although SB 54 purports
19 to be consistent with section 1373, *see* Cal. Gov't Code § 7284.6(e), sections
20 7284.6(a)(1)(C) and (D) explicitly forbid the sharing of information covered by 8 U.S.C.
21 § 1373. For example, on March 28, 2018, a Criminal Targeting Specialist assigned to
22 the U.S. Immigration and Customs Enforcement (ICE) National Criminal Analysis and
23 Targeting Center requested that a representative of the Orange County Sheriff's
24 Department provide a booking photo from an arrest of an individual suspected of
25 immigration violations in January 2017 for bringing controlled substances into a prison
26 and being under the influence thereof. Providing the photo to ICE would have placed
27 the Sheriff in the position of violating Government Code section 7284.6 (a)(1)(D) which
28 prohibits law enforcement from providing an individual's personal information not

1 available to the general public to ICE.

2 41. The transfer restriction additionally requires that the United States present a
3 “judicial warrant or judicial probable cause determination” before the state or locality
4 may transfer an alien to DHS for appropriate immigration enforcement action. This
5 provision also conflicts with federal law, which establishes a system of civil
6 administrative warrants as the basis for immigration arrest and removal, and does not
7 require or contemplate use of a judicial warrant for civil immigration enforcement. *See* 8
8 U.S.C. § 1226(a), 1231(a).

9 42. Since January 1, 2018, law enforcement agencies in California, as defined
10 by SB 54, if they follow state law, will not communicate to DHS the release date or
11 home address of aliens DHS has reason to believe are removable from the United States,
12 or transfer such aliens to DHS custody, even where DHS presents a Congressionally-
13 authorized civil administrative warrant of arrest or removal, *see* 8 U.S.C. § 1226(a);
14 1231(a), or has transferred those aliens to local law enforcement in the first instance to
15 permit California or its subdivisions to criminally prosecute them for a state crime. The
16 Orange County Sheriff’s Department was the only Sheriff’s Department in the State that
17 continued to operate a 287g program in the jails. Under this program, jail deputies, who
18 had been trained by ICE, reviewed inmates for civil immigration violations and placed
19 “detainers” on those inmates who qualified under California law to be transferred to ICE
20 once the inmates were eligible to be released from Sheriff’s custody. SB 54 prohibits
21 law enforcement from participating in the 287g program and the Sheriff discontinued the
22 program at the end of December 2017. Additionally, under SB 54, the Sheriff may no
23 longer provide immigration authorities with release dates of inmates unless those
24 inmates have certain convictions. The Sheriff may not provide an individual’s home
25 address or work address or other personal information not available to the general public
26 to immigration authorities.

27 Also, in January 2018, the state Attorney General’s office demanded a tour of the
28 Theo Lacy Branch Jail and James A. Musick Branch Jail wherein ICE detainees are held

1 within the County of Orange jail system. The demand included review of documents that
2 ICE contends are its property and that, pursuant to the contract between the County,
3 Sheriff and ICE, are to be kept confidential. A second example is that the state Attorney
4 General guidelines for implementing the state sanctuary laws state that the Sheriff may
5 not divulge to ICE information about the release of detainees or the detainees themselves
6 if the detainees do not fall within the specific crime parameters of the state statute unless
7 that information is otherwise available to the general public. The Sheriff, in order to
8 fulfill her obligations to the federal government, decided to make public release
9 information for all persons kept in the custody of her jail system. Upon hearing that this
10 was her intent, the defendant Attorney General at press conference was recorded as
11 saying, "State law is state law. And it is my job to enforce state law. I will do so. And
12 we want to make sure that every jurisdiction, including Orange County, understands what
13 state law requires of the people and the subdivisions of the State of California." In
14 response to this statement, a reporter asked: "Does that mean a lawsuit against the
15 sheriff's department or the arrest of the sheriff?" The Attorney General replied, "I think I
16 just answered that."

17 43. By restricting basic information sharing and by barring the transfer to DHS
18 of aliens in state or local custody upon their release through the means provided for by
19 federal law, SB 54 requires federal immigration officers to either engage in difficult and
20 dangerous efforts to re-arrest aliens who were previously in state custody, endangering
21 immigration officers, the alien at issue, and others who may be nearby, or to determine
22 that it is not appropriate to transfer an alien to state or local custody in the first place, in
23 order to comply with their mission to enforce the immigration laws. California has no
24 lawful interest in assisting removable aliens to evade federal law enforcement.

25 44. These provisions violate the Supremacy Clause by, among other things,
26 constituting an obstacle to the United States' enforcement of the immigration laws and
27 discriminating against federal immigration enforcement, as well as (with respect to the
28 information-sharing restrictions) expressly violating 8 U.S.C. § 1373(a).

1 **CLAIM FOR RELIEF**

2 **COUNT ONE – Inspection and Review of Detention Facilities**

3 1. Plaintiff hereby incorporates paragraphs 1 through 35 of the Complaint as if
4 fully stated herein.

5 2. Section 12532 of the California Government Code violates the Supremacy
6 Clause, and is invalid.

7 **COUNT TWO – Restrictions on State and Local Cooperation**

8 1. Plaintiff hereby incorporates paragraphs 1 through 2 and 36 through 44 of
9 the Complaint as if fully stated herein.

10 2. Sections 7284.6(a)(1)(C) & (D) and 7284.6(a)(4) of the California
11 Government Code violate the Supremacy Clause and 8 U.S.C. § 1373(a), and are
12 invalid.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, the COUNTY OF ORANGE and SANDRA HUTCHENS,
15 SHERIFF CORONER OF THE COUNTY OF ORANGE, respectfully request the
16 following relief:

17 1. That this Court enter a judgment declaring that Section 12532 of the
18 California Government Code violates the Supremacy Clause and is therefore invalid;

19 2. That this Court enter a judgment declaring that Sections 7284.6(a)(1)(C) &
20 (D) and 7284.6(a)(4) of the California Government Code violate the Supremacy Clause
21 and are therefore invalid;

22 3. That this Court issue a permanent injunction that prohibit Defendants, as
23 well as their successors, agents, and employees, from enforcing Section 12532 of the
24 California Government Code;

25 4. That this Court issue a permanent injunction that prohibit Defendants as
26 well as their successors, agents, and employees, from enforcing Sections 7284.6(a)(1)(C)
27 & (D) and 7284.6(a)(4) of the California Government Code;

28 5. That this Court award the County of Orange and the Sheriff-Coroner of the

1 County of Orange their costs in this action;

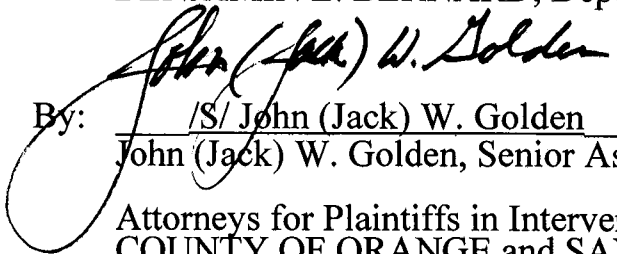
2 6. That this Court award reasonable attorneys' fees to the County of Orange
3 and the Sheriff-Coroner of the County of Orange according to proof if allowable by law;
4 and

5 7. That this Court award any other relief it deems just and proper.

6
7 DATED: April 19, 2018

Respectfully submitted,

8 LEON J. PAGE, COUNTY COUNSEL
9 JOHN (JACK) W. GOLDEN, Senior Assistant
10 STEVEN C. MILLER, Senior Deputy
11 PATRICK K. BRUSO, Deputy
12 BENJAMIN L. BERNARD, Deputy

11 

12 By: /s/ John (Jack) W. Golden
13 John (Jack) W. Golden, Senior Assistant

14 Attorneys for Plaintiffs in Intervention
15 COUNTY OF ORANGE and SANDRA
16 HUTCHENS, Sheriff-Coroner for the
17 County of Orange