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14 IN THE UNITED STATES DISTRICT COURT
 15 FOR THE 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] MOTION TO
 DISMISS OF THE CALIFORNIA
 PARTNERSHIP TO END
 DOMESTIC VIOLENCE AND THE
 COALITION FOR HUMANE
 IMMIGRANT RIGHTS**

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29 **pro hac vice application forthcoming*
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1 Intervenor-Defendants hereby move to dismiss the United States’ claims against the
2 California Values Act pursuant to Federal Rule of Civil Procedure 12(b)(6). This motion
3 incorporates by reference the arguments made in Intervenor-Defendants’ Opposition to the
4 United States’ Motion for Preliminary Injunction. *See* Order, ECF No. 71, at 1-2 (directing the
5 parties to “incorporate by reference arguments made in their briefs rather than repeat the same
6 argument in separate briefs”).

7
8 Intervenor-Defendants are two statewide organizations that serve immigrants and their
9 communities in California. The California Partnership to End Domestic Violence
10 (“Partnership”) is a non-profit association of individuals and groups committed to ending all
11 forms of domestic violence; its members include individual survivors, non-profit shelters, legal
12 service providers, and local government agencies, which serve a large number of immigrant
13 clients. The Coalition for Humane Immigrant Rights (“CHIRLA”) is a non-profit organization
14 that supports immigrant communities using civic engagement, education, legal services,
15 organizing, and policy advocacy; its members include thousands of immigrants, mixed-status
16 families, and their neighbors, friends, and allies. Intervenor-Defendants have moved to intervene
17 to defend the Values Act, which was enacted to protect their members and clients, and which
18 they devoted considerable resources to support. *See* Mot. to Intervene.

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21 The challenged Values Act provisions limit the amount of assistance the State of
22 California will provide to federal immigration officials. In particular, they provide that
23 California law enforcement agencies generally will not transfer custody of noncitizen residents to
24 the Department of Homeland Security or facilitate immigration arrests by sharing people’s
25 release dates or addresses. Cal. Gov’t Code § 7284.6(a)(1)(C)-(D), (a)(4). The Act contains a
26 number of exceptions for people who have been convicted of or charged with an enumerated list
27 of crimes. *Id.* § 7282.5(a)-(b).

1 The United States alleges that these provisions are expressly preempted by 8 U.S.C.
2 § 1373, are impliedly preempted as an obstacle to federal immigration enforcement, and violate
3 the intergovernmental immunity doctrine. Compl., ECF No. 1, at 13-17. As explained in
4 Intervenor-Defendants' Opposition to the Motion for Preliminary Injunction, filed herewith, each
5 of the federal government's theories fails to state a claim. See Fed. R. Civ. P. 12(b)(6).
6 Congress may not prevent a State from declining to help administer a federal program. PI Opp.,
7 Part I.A. That principle by itself dooms all of the government's claims against the Values Act.
8 *Id.*, Part I.B, I.E. Nor has Congress tried to preempt the Values Act in § 1373, which only
9 prohibits restrictions on sharing information about citizenship and immigration status, not release
10 dates and addresses. *Id.*, Part I.C. Even if preemption were possible, Congress cannot *impliedly*
11 preempt the Values Act, because intrusions into States' fundamental sovereign decisions require
12 unmistakably clear textual statements. *Id.*, Part I.D.1. And even were that not so, Congress has
13 shown no intention to impliedly preempt the Values Act, but instead has ensured that States
14 remain free to structure their own participation in the federal immigration scheme. *Id.*, Part
15 I.D.2.

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18 Accordingly, because the United States has not stated any valid legal theories against the
19 Values Act, the Court should dismiss those claims.
20

21 Dated: May 4, 2018

Respectfully submitted,

/s/ Spencer E. Amdur

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