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9

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12
13

14 **CITY OF HUNTINGTON BEACH,**
15 **et al.,**

16 Plaintiffs,

17 v.

18 **THE STATE OF CALIFORNIA,**
19 **GAVIN NEWSOM, in his official**
20 **capacity as Governor of the State of**
California; ROBERT BONTA in his
21 **official capacity as Attorney General**
of the State of California,

22 Defendants.
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8:25-cv-00026

**MEMORANDUM OF POINTS
AND AUTHORITIES IN SUPPORT
OF MOTION TO DISMISS
SECOND AMENDED
COMPLAINT**

Date: August 29, 2025
Time: 2:00 p.m.
Courtroom: 2, 2nd Floor (via Zoom)
Judge: The Honorable Sunshine
Suzanne Sykes
Trial Date: None set
Action Filed: 1/07/2025

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INTRODUCTION

In 2017, in an exercise of the state’s police power, California enacted Senate Bill (“SB”) 54, also known as the California Values Act. The Legislature found and declared in SB 54 that a “relationship of trust between California’s immigrant community and local agencies is central to the public safety of the people of California,” that “[t]his trust is threatened when state and local agencies are entangled with federal immigration enforcement,” and that “[e]ntangling state and local agencies with federal immigration enforcement programs diverts already limited resources and blurs the lines of accountability between local, state, and federal governments.” Cal. Gov’t Code § 7284.2(a), (b), & (c). In light of these findings and to “ensure effective policing” and protect public health and safety, SB 54 generally prohibits California state and local law enforcement agencies from assisting federal immigration enforcement efforts. *See id.* §§ 7284.2(g), 7284.6.

Today, SB 54 remains a valid, enforceable law that applies to all local governments across the state. This is despite the past efforts of the both the federal government, which unsuccessfully challenged the constitutionality of SB 54 under the Supremacy Clause, and Plaintiff City of Huntington Beach, which unsuccessfully challenged SB 54 under the California Constitution. *United States v. California*, 921 F.3d 865, 890-91 (9th Cir. 2019), *cert. denied*, 141 S. Ct. 124 (2020); *City of Huntington Beach v. Becerra*, 44 Cal.App.5th 243, 248 (2020).

In the second amended complaint in this action (“SAC”)¹, the City of Huntington Beach and certain City components and local government officials have renewed their attack on SB 54 based on their continuing belief that SB 54 is unconstitutional. However, this Court does not have subject matter jurisdiction to hear any of Plaintiffs’ claims.

¹ Although the pleading is erroneously entitled “First Amended Complaint,” it is, in fact, Plaintiffs’ second amended complaint. *See* ECF No. 29 at 1; ECF Nos. 26, 28.

1 Plaintiffs lack standing to bring the federal claims in the First through Fifth
2 and Eighth through Tenth Causes of Action, which challenge the validity of SB 54
3 under the U.S. Constitution and certain federal statutes. Under longstanding Ninth
4 Circuit precedent, political subdivisions of a state may not challenge the validity of
5 state statutes under federal law in federal court. *City of S. Lake Tahoe v. California*
6 *Tahoe Reg'l Plan. Agency*, 625 F.2d 231, 233-34 (9th Cir. 1980). This per se bar
7 applies to local governments (including charter cities) and to local government
8 officials alleging official injuries. *See, e.g., Burbank-Glendale-Pasadena Airport*
9 *Auth. v. City of Burbank*, 136 F.3d 1360, 1364 (9th Cir. 1998); *Thomas v. Mundell*,
10 572 F.3d 756, 761 (9th Cir. 2009).

11 This Court also lacks subject matter jurisdiction over Plaintiff's state claims in
12 the Sixth and Seventh Causes of Action. The Court has no jurisdictional basis for
13 these claims, because it has neither federal question nor supplemental jurisdiction.
14 Furthermore, the claims are barred by Defendants' Eleventh Amendment immunity
15 and state sovereign immunity.

16 Finally, all claims in the SAC should be dismissed against Defendant State of
17 California, which has Eleventh Amendment and state sovereign immunity.

18 For these reasons, as explained further below, the SAC should be dismissed
19 for lack of subject matter jurisdiction.

20 BACKGROUND

21 I. SENATE BILL 54 HISTORY AND TEXT

22 In 2017, the California Legislature determined that "entangling state and local
23 agencies with federal immigration enforcement programs" adversely affects
24 Californians by "divert[ing] already scarce resources and blur[ring] the lines of
25 accountability between local, state, and federal government." Cal. Gov't Code
26 § 7284.2(d). The Legislature further found that state involvement in federal
27 immigration enforcement threatens the "relationship of trust between California's
28 immigrant community and state and local agencies," causing immigrant community

1 members to “fear approaching police when they are victims or witnesses to[]
2 crimes . . . to the detriment of public safety and the well-being of all Californians.”
3 *Id.* (b)-(c). In light of these concerns, the Legislature made a policy decision to
4 “direct the state’s limited resources to matters of greatest concern to state and local
5 governments,” and enacted SB 54.

6 With certain limited exceptions, SB 54 prohibits California state and local law
7 enforcement agencies from assisting federal immigration enforcement efforts. Cal.
8 Gov’t Code § 7284.2. SB 54 specifically prohibits California law enforcement
9 agencies from using taxpayer funds to “investigate, interrogate, detain, detect, or
10 arrest persons for immigration enforcement purposes.” Cal. Gov’t Code
11 § 7284.6(a). Subject to certain exceptions, this prohibition includes:

- 12 • Inquiring into an individual’s immigration status;
- 13 • Detaining an individual on the basis of a hold request;
- 14 • Providing information regarding an individual’s release date;
- 15 • Providing an individual’s home address or other personal information;
- 16 • Making or intentionally participating in arrests based on civil immigration
17 warrants;
- 18 • Assisting immigration authorities in interrogating or arresting an alien, or
19 other activities described in 8 U.S.C. § 1357(a)(3);
- 20 • Performing the functions of an immigration officer or placing peace
21 officers under the supervision of federal agencies;
- 22 • Using immigration authorities as interpreters for law enforcement matters
23 relating to individuals in agency or department custody;
- 24 • Transferring an individual to immigration authorities without a judicial
25 warrant or judicial probable cause determination for an immigration
26 violation;
- 27 • Contracting with the federal government for use of law enforcement
28 agency facilities to house federal immigration detainees; and

- Providing office space for use by immigration authorities.

See id. (a)(1).

SB 54 sets forth several exceptions to these prohibitions. *See* Cal. Gov’t Code §§ 7282.5, 7284.6(b), (e). For example, when an individual has been convicted of certain serious crimes, including specified serious and violent felonies, SB 54 permits law enforcement to transfer the individual to federal immigration authorities or provide immigration officials with release date information. *Id.* §§ 7282.6(a)(1)(C), 7284.6(a)(4), 7282.5(a). Moreover, where SB 54 does not expressly prohibit it, law enforcement officials have discretion to cooperate with immigration authorities—or not—provided that doing so would not violate any other local, state, or federal laws. *Id.* § 7282.5(a). SB 54 also expressly states that it does not prohibit any government entity or official from communicating with federal immigration authorities the citizenship or immigration status of individuals “pursuant to Sections 1373 and 1644 of Title 8 of the United States Code. *Id.* at 7284.6(e).²

II. SB 54 HAS ALREADY BEEN UPHOLD IN LEGAL CHALLENGES BY THE UNITED STATES AND THE CITY OF HUNTINGTON BEACH

In March 2018, the federal government sued the State to challenge SB 54 and certain other laws related to immigration. The United States argued that SB 54 “unlawfully obstructs the enforcement of federal immigration laws” and therefore violates the Supremacy Clause of the U.S. Constitution. *United States v. California*, 921 F.3d 865, 873 (9th Cir. 2019). On appeal, the Ninth Circuit disagreed and upheld SB 54. *Id.* at 890-91. The Court concluded that SB 54 is not preempted by federal law because “SB 54 does not directly conflict with any obligations that the INA or other federal statutes impose on state or local governments,” *id.* at 888, and because “California’s decision [in SB 54] not to assist

² *See also United States v. California*, 921 F.3d at 891-93 (holding that SB 54 is not preempted by 8 U.S.C. § 1373).

1 federal immigration enforcement in its endeavors is not an ‘obstacle’ to that
2 enforcement effort,” *id.* (quoting *United States v. California*, 314 F.Supp.3d 1077,
3 1104 (E.D. Cal. 2018)). The Court concluded further that, even if SB 54 did pose
4 an obstacle to federal immigration enforcement, that would not render the statute
5 invalid because requiring California to assist federal immigration enforcement
6 would be contrary to the Tenth Amendment and the anticommandeering doctrine.
7 *Id.* The United States subsequently petitioned the Ninth Circuit for en banc
8 rehearing and the Supreme Court for certiorari, but both petitions were denied.
9 Order, No. 18-16496 (9th Cir. June 26, 2019); 141 S. Ct. 124 (2020).

10 In April 2018, the City of Huntington Beach filed suit in California state court
11 challenging the validity of SB 54 under a provision of the California Constitution
12 related to charter cities. *See City of Huntington Beach v. Becerra*, 44 Cal.App.5th
13 243, 247-48 (2020). The California Court of Appeal, like the Ninth Circuit in
14 *United States v. California*, upheld SB 54. *Id.* at 248. The court held that SB 54 is
15 valid under the California Constitution as applied to charter cities such as the City
16 of Huntington Beach because, as required by state law, SB 54 “addresses matters of
17 statewide concern—including public safety and health, effective policing, and
18 protection of constitutional rights—is reasonably related to resolution of those
19 statewide concerns, and is narrowly tailored to avoid unnecessary interference in
20 local government.” *Id.*

21 Following these unsuccessful legal challenges, SB 54 remains valid state law.

22 **III. ALLEGATIONS IN THE SECOND AMENDED COMPLAINT**

23 Plaintiffs are the City of Huntington Beach (the “City”), and its city council,
24 police department, and police chief, in his official capacity. SAC at 1, 8-9. The
25 City is a municipal corporation formed as a charter city pursuant to Article XI,
26 sections 3 and 5 of the California Constitution. *Id.* at 11. The Riverside County
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1 Sheriff, Coroner, and Public Administrator Chad Bianco is also a Plaintiff in his
2 official capacity.³ *Id.* at 1, 9.

3 Defendants are the State of California, California Governor Gavin Newsom,
4 and California Attorney General Rob Bonta, in their official capacities. SAC at 1,
5 9-10.

6 Plaintiffs generally allege that SB 54 endangers the safety and welfare of the
7 City, citing crime trends statewide, nationwide, and in Orange County. SAC at 3-6.
8 They allege that SB 54 “limits the ability of City officials, including Huntington
9 Beach Police personnel, to engage fully in effective law enforcement practices.” *Id.*
10 at 5. They also allege that SB 54 requires City officials, including police
11 department personnel, to violate federal and state laws. *Id.* at 7.

12 The SAC alleges ten causes of action. SAC at 1-2, 40-64.

13 In the First Cause of Action, Plaintiffs allege that SB 54 violates the
14 Supremacy Clause because it is preempted by 8 U.S.C. sections 1324, 1373, and
15 1644. SAC at 41. Section 1324 prohibits persons from, among other things,
16 “conceal[ing], harbor[ing], or shield[ing] from detection” undocumented
17 immigrants. 8 U.S.C. § 1324(a)(1)(iii). Section 1373 and 1644 both prohibit any
18 restriction on any government entity or official’s communication of an individual’s
19 immigration status with ICE. 8 U.S.C. §§ 1373(a), 1644. Plaintiffs allege that SB
20 54 “is an obstacle to the City’s and the Sheriff’s ability to comply with” sections
21 1324, 1373, and 1644, and “prevents City officials including Huntington Beach
22 Police personnel, and the Sheriff and his subordinates, from full, effective law
23 enforcement and obstructs the City’s and the Sheriff’s ability to coordinate and
24 cooperate with Federal law enforcement agencies.” SAC at 42.

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³ As a point of clarification, the City of Huntington Beach is in Orange
28 County, not Riverside County.

1 In the Second Cause of Action, Plaintiffs allege that SB 54 violates the
2 Naturalization Clause of the U.S. Constitution. SAC at 43. Plaintiffs allege that
3 SB 54 does so,

4 by actively obstructing the authority of the Federal Government and
5 obstructing the City's and the Sheriff's ability to employ all laws
6 available, including U.S. Federal immigration laws, to combat crime
7 and ensure public safety by coordinating with the Federal
Government to deal with certain individuals committing crimes and
who are subject to U.S. Federal immigration laws.

8 *Id.* at 46.

9 The Third through Fifth Causes of Action allege that SB 54 violates or causes
10 Plaintiffs or their personnel to violate certain federal immigration and criminal
11 statutes: 8 U.S.C sections 1324, 1373, and 1644 and 18 U.S.C. sections 4, 371, 372,
12 and 1512. SAC at 47-56. The Title 8 immigration statutes are the same as those
13 that allegedly preempt SB 54 according to the First Cause of Action. The Title 18
14 criminal statutes prohibit concealment of a felony (section 4), conspiracy to commit
15 an offense against the United States (section 371), conspiracy to impede a federal
16 officer in the discharge of official duties (section 372), misleading a person to cause
17 someone to be absent from an official proceeding (section 1512, subdivision
18 (b)(2)(D)), and specified acts of witness tampering (section 1512, subdivision
19 (b)(3)).

20 In the Sixth Cause of Action, Plaintiffs allege that SB 54 causes Plaintiffs and
21 their personnel to violate California Penal Code sections 31 and 32. SAC at 57-59.
22 These state statutes prohibit aiding and abetting in the commission of a crime or
23 after the fact. *See* Cal. Penal Code §§ 31, 32. Plaintiffs allege that SB 54 requires
24 City officials, the Sheriff, and his personnel to violate Penal Code section 31 and 32
25 because SB 54 allegedly requires them to: (1) violate 8 U.S.C. section 1324 by
26 concealing undocumented immigrants in their custody; and, (2) "encourage and
27 conceal the commission of felonies by [undocumented immigrants], including
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1 under 8 U.S.C. §§ 1325(a) and 1326,” which prohibit unlawful entry into the
2 country. SAC at 57-58.

3 In the Seventh Cause of Action, entitled “Violation of Oath of Office”
4 Plaintiffs allege that, because SB 54 purportedly violates the U.S. Constitution, SB
5 54 causes certain City officials and police officers to violate their oath of office
6 required in Article XX, section 3 of the California Constitution. SAC at 59. That
7 oath requires certain officials to swear or affirm, among other things, that they will
8 support and defend the United States and California Constitutions. *Id.*

9 In the Eighth Cause of Action, Plaintiffs allege violation of the First
10 Amendment. Plaintiffs vaguely allege that SB 54 unconstitutionally chills
11 “Plaintiffs’ communications with federal officials about immigration matters.”
12 SAC at 61.

13 In the Ninth Cause of Action, Plaintiffs allege violation of civil rights under 42
14 U.S.C. section 1983. SAC at 62. Plaintiffs allege that SB 54 “compels” the speech
15 of Plaintiffs and their personnel, which “deprives the Plaintiffs of their free speech
16 rights under the First Amendment of the Constitution as explained above in Count
17 8.” *Id.* at 62. Plaintiffs also allege that SB 54 deprives Plaintiffs of their “rights
18 and privileges” under 8 U.S.C. sections 1373 and 1644, which prohibit restrictions
19 on any government entity or official’s communication of an individual’s
20 immigration status with ICE. *Id.* at 63.

21 In the Tenth Cause of Action Plaintiffs purport to allege a “Non-Statutory
22 Cause of Action for Violation of Federal Law.” SAC 64. Plaintiffs allege that they
23 “have a cause of action” and are entitled to relief against Defendants because the
24 First through Fifth and Eighth through Ninth causes of action “catalog the
25 numerous ways that Newsom and Attorney General Bonta are violating Federal law
26 and the Constitution.” *Id.* Plaintiffs also recite in this claim the *Ex Parte Young*
27 doctrine’s allowance for “suits against state officials in their official capacity for
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1 prospective injunctive relief to prevent ongoing violations of federal law. *Id.*
2 (citing *Ex parte Young*, 209 U.S. 123 (1908)).

3 For relief, Plaintiffs seek injunctive relief preventing Defendants from
4 enforcing SB 54 “to the extent those statutes and provisions violate the Supremacy
5 Clause, the aforementioned U.S. Federal immigration, criminal, and civil rights
6 laws, the aforementioned California Penal Code(s), and other provisions of the U.S.
7 Constitution and California Constitution.” SAC at 65. Plaintiffs pray for a
8 declaration that SB 54 “violate[s] the Supremacy Clause, the aforementioned U.S.
9 Federal immigration, criminal, and civil rights laws, the aforementioned California
10 Penal Code(s), and other provisions of the U.S. Constitution and California
11 Constitution.” *Id.* Lastly, Plaintiffs request a declaration that SB 54 “provides no
12 obstacle to Huntington Beach’s or the Sheriff’s and his subordinates’ cooperation
13 with the Federal Government and acts to comply with all U.S. federal immigration
14 laws.” *Id.*

15 **LEGAL STANDARD FOR MOTION TO DISMISS**

16 Federal Rule of Civil Procedure Rule 12(b)(1) allows a party to raise the
17 defense that the court lacks “jurisdiction over the subject matter” of a claim. A
18 motion under Rule 12(b)(1) may be made where the plaintiff lacks standing to bring
19 the suit. *Maya v. Centex Corp.*, 658 F.3d 1060, 1067-69 (9th Cir. 2011). Where a
20 Rule 12(b)(1) motion is brought, the “party asserting federal subject matter
21 jurisdiction bears the burden of proving its existence.” *Id.* at 1122.

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1 **ARGUMENT⁴**

2 **I. PLAINTIFFS LACK STANDING TO BRING THE FEDERAL CLAIMS IN THE**
3 **FIRST THROUGH FIFTH AND EIGHTH THROUGH TENTH CAUSES OF**
4 **ACTION**

5 The First through Fifth and Eighth through Tenth Causes of Action, each of
6 which purport allege a claim under federal law, should be dismissed because
7 Plaintiffs lack standing to bring the claims.

8 **A. The City Lacks Standing**

9 It is a well-established Ninth Circuit rule that cities, as political subdivisions
10 of the state, lack standing to challenge the constitutionality of a state statute. *City of*
11 *S. Lake Tahoe v. California Tahoe Reg'l Plan. Agency*, 625 F.2d 231, 233-34 (9th
12 Cir. 1980); *accord Burbank-Glendale-Pasadena Airport Auth. v. City of Burbank*,
13 136 F.3d 1360, 1362, 1364 (9th Cir. 1998). This is a “per se” rule to which the
14 Ninth Circuit “has not recognized any exception.” *Burbank-Glendale-Pasadena*
15 *Airport Auth.*, 136 F.3d at 1364.

16 The rule—often called the “*South Lake Tahoe*” rule—has been applied
17 consistently for decades to a variety of federal constitutional claims brought by
18 local government entities against the state, including claims materially
19 indistinguishable from those at issue here. *See S. Lake Tahoe*, 625 F.2d at 234 (city
20 and its council members lacked standing to bring claims based on the Supremacy
21 Clause, Fifth and Fourteenth Amendments, and the right to travel); *Burbank-*
22 *Glendale-Pasadena Airport Auth.*, 136 F.3d at 1362, 1364 (local airport authority

23 ⁴ For the purposes of this section, this motion shall refer to Plaintiffs City of
24 Huntington Beach, Huntington Beach City Council, and Huntington Beach Police
25 Department collectively as the “City,” because the city council and police
26 departments are components of the City of Huntington Beach. *See e.g.*
27 HUNTINGTON BEACH, CAL., CHARTER art III, § 300 (creating city council offices);
28 HUNTINGTON BEACH, CAL., CHARTER tit 2, § 2.52.010 (establishing police
department). In this section, Plaintiffs Huntington Beach Police Chief and
Riverside County Sheriff Bianco shall be referred to as the “Law Enforcement
Officials.”

1 lacked standing to challenge state statute based on the Supremacy Clause,
2 Commerce Clause, and Due Process Clause); *Palomar Pomerado Health Sys. v.*
3 *Belshe*, 180 F.3d 1104, 1107, 1108 (9th Cir. 1999) (health care district lacked
4 standing to challenge state statute based on alleged conflict with federal Medicaid
5 law); *Okanogan Sch. Dist. #105 v. Superintendent of Pub. Instruction for State of*
6 *Washington*, 291 F.3d 1161, 1162-63 (9th Cir. 2002) (school district lacked
7 standing to bring section 1983 challenge state's distribution of federal funds paid
8 pursuant to federal statute); *Thomas v. Mundell*, 572 F.3d 756, 759, 760 (9th Cir.
9 2009) (County Attorney lacked standing to bring First and Fourteenth Amendment
10 claims against state court judge and state court); *City of San Juan Capistrano v.*
11 *California Pub. Utilities Comm'n*, 937 F.3d 1278, 1281 (9th Cir. 2019) (city lacked
12 standing to bring procedural due process claim arising from state agency's
13 administrative decision).

14 Here, *South Lake Tahoe* applies to all of the federal law claims in the SAC.
15 The rule clearly applies to Plaintiffs' First Cause of Action for violation of the
16 Supremacy Clause, Second Cause of Action for violation of the Naturalization
17 Clause, and Eighth Cause of Action for violation of the First Amendment. Those
18 claims, on their face, challenge the constitutionality of a state statute, SB 54. As a
19 political subdivision of the State, the City therefore lacks standing to bring those
20 claims.

21 *South Lake Tahoe* also bars the City from bringing the Third through Fifth
22 Causes of Action, which allege that SB 54 violates or causes City personnel to
23 violate specified federal statutes. SAC at 47-56. This is because the rule extends to
24 claims alleging "that a state statute or regulation conflict[s] with a federal statute."
25 *City of San Juan Capistrano v. California Pub. Utilities Comm'n*, 937 F.3d 1278,
26 1281 & n.1 (9th Cir. 2019). Indeed, the Ninth Circuit has held at least twice that
27 local government entities lack standing to challenge state statutes or regulations as
28 contrary to federal law, recognizing that such claims are inherently based on the

1 Supremacy Clause of the U.S. Constitution. *See Okanogan Sch. Dist. #105*, 291
2 F.3d at 1162, 1165; *Palomar Pomerado*, 180 F.3d at 1107.

3 The Ninth Cause of Action, which seeks to allege a claim under 42 U.S.C.
4 section 1983 for purported violations of Plaintiffs' rights under the First
5 Amendment and 8 U.S.C sections 1373 and 1644, is also barred by *South Lake*
6 *Tahoe*. This cause of action merely utilizes section 1983 as an alternative vehicle
7 for alleging that SB 54 violates federal law. However, just like a direct
8 constitutional claim, a claim under section 1983 is also subject to *South Lake*
9 *Tahoe*. *See Okanogan Sch. Dist. #105*, 291 F.3d at 1162-63 (applying *South Lake*
10 *Tahoe* standing bar to section 1983 claim); *Thomas*, 572 F.3d at 760 (9th Cir. 2009)
11 (same); *City of San Juan Capistrano*, 937 F.3d at 1281 (same).⁵

12 Finally, *South Lake Tahoe* applies to Plaintiffs' Tenth Cause of Action, which
13 merely alleges that they are entitled to relief under *Ex Parte Young* because
14 Governor Newsom and Attorney General Bonta have expressed intent to enforce
15 SB 54, purportedly in violation of federal law. Even if this were a cognizable
16 independent cause of action (which it is not), in *Palomar Pomerado*, the Ninth
17 Circuit rejected the notion that *Ex Parte Young* could be invoked to evade the
18 application of *South Lake Tahoe*. 180 F.3d at 1108. There, a health care district
19 sued the California Department of Health Services and its officials to prevent them
20 from enforcing a state regulation that allegedly conflicted with federal Medicaid
21 law. *Id.* at 1106. The Ninth Circuit explained that *Ex Parte Young* did not
22 overcome *South Lake Tahoe* and confer standing on the plaintiffs because their suit

23 ⁵ Although not expressly stated in the Ninth Circuit opinions, the plaintiffs'
24 constitutional claims in *Thomas* and *City of San Juan Capistrano* were brought
25 under section 1983. *See* Amended Complaint at 3, 12-14, *Thomas v. Mundell*, No.
26 2:06-cv-00598-EHC (D. Ariz. March 13, 2006), ECF No. 14; Complaint for
27 Declaratory and Injunctive Relief for Violations of Federal and State Provisions
28 Protecting the Right to Due Process [42 U.S.C. § 1983] at 1, *City of San Juan*
Capistrano v. California Pub. Utilities Comm'n, No. 8:17-cv-01096 (C.D. Cal.
June 23, 2017), ECF No. 1.

1 was still effectively against the State and *Ex Parte Young* (at most) operates as a
2 limited exception to Eleventh Amendment immunity, not an exception to standing
3 requirements. *Id.* at 1108.⁶ Here, Plaintiffs similarly cannot circumvent *South Lake*
4 *Tahoe* and establish standing by invoking *Ex Parte Young*.

5 The City’s status as a charter city also does not offer any escape from *South*
6 *Lake Tahoe*’s per se rule. The Ninth Circuit has already squarely held that
7 California charter cities are treated the same as other political subdivisions for
8 purposes of the federal standing analysis. *Burbank-Glendale-Pasadena Airport*
9 *Auth.*, 136 F.3d at 1364. On these grounds, another constitutional challenge to a
10 California statute brought by the City of Huntington Beach was recently dismissed.
11 *See City of Huntington Beach v. Newsom*, No. 8:23-CV-00421-FWS-ADS, 2023
12 WL 8043846, at *7 (C.D. Cal. Nov. 13, 2023) (citing *Burbank*, 136 F.3d at 1364).
13 The Ninth Circuit affirmed, explaining: “No matter how California categorizes
14 charter cities, they remain subordinate political bodies, not sovereign entities,”
15 which “brings charter cities within the rule of *South Lake Tahoe*.” 2024 WL
16 4625289 (9th Cir. Oct. 30, 2024) (citing 625 F.2d at 233).

17 **B. The Law Enforcement Officials Also Lack Standing**

18 The Plaintiff Law Enforcement Officials—the Huntington Beach Police Chief
19 and Riverside County Sheriff Bianco—also lack standing to bring the federal
20 claims in the First through Fifth and Eighth through Tenth Causes of Action.

21 Similar to cities and other political subdivisions of the state, public officials
22 lack standing to challenge the constitutionality of state laws if they assert “official”
23 rather than “personal” interests or injuries. *Thomas v. Mundell*, 572 F.3d 756, 761
24 (9th Cir. 2009) (quoting *S. Lake Tahoe v.* 625 F.2d at 238). Here, by definition, the
25 Law Enforcement Officials are asserting officials interests because they are suing

26
27 ⁶ Indeed, a contrary conclusion would greatly undercut *South Lake Tahoe* by
28 allowing many plaintiffs to simply allege their claims against the state officials who
enforce the state laws they seek to invalidate.

1 only in their official capacities. SAC at 1; *see also Hafer v. Melo*, 502 U.S. 21, 25
2 (1991) (“the real party in interest in an official-capacity suit is the governmental
3 entity and not the named official”).

4 Moreover, the only injuries alleged by the Law Enforcement Officials are, in
5 fact, official and not personal. For example, Plaintiffs allege that they are injured
6 because SB 54 purportedly endangers public safety in the City. SAC at 3-6.

7 However, general public safety in Huntington Beach is the *City’s* interest. Under
8 *South Lake Tahoe*, a city official challenging the constitutionality of a state statute
9 lacks standing if they merely seek to represent the interests of the city itself. 625
10 F.2d at 237. Plaintiffs also allege that they are injured because SB 54 limits City
11 and Sheriff’s Department officials’ ability to coordinate with federal immigration
12 authorities. *See, e.g.*, SAC at 6, 34, 38. However, an injury to an official’s ability
13 to perform their duties is an official injury, not a personal one. *Mundell*, 572 F.3d
14 at 762 (*South Lake Tahoe* standing bar applied to County Attorney claiming that
15 state law put him at a disadvantage in his performance of prosecutorial functions).

16 Finally, Plaintiffs allege that they are injured because SB 54 purportedly
17 requires City and Sheriff’s Department officials to violate federal and state laws.
18 *See, e.g.*, SAC at 5, 7, 41. However, an injury is “official” and not personal where
19 it arises from the official’s preference not to “perform[] duties,” such as the
20 enforcement of state law, “that he perceives to be unconstitutional.” *Thomas*, 572
21 F.3d at 761 (citing *Smith v. Indiana*, 191 U.S. 138 (1903)). Officials suffer no
22 legally cognizable injury merely because “they wish not to” perform that role due to
23 “private constitutional predilections.” *S. Lake Tahoe*, 625 F.2d at 238; *cf. Haaland*
24 *v. Brackeen*, 599 U.S. 255, 295 (2023) (mere “complicit[y] in enforcing” a law does
25 not provide standing to challenge it). Otherwise, “[t]o confer standing on public
26 officials because they wish not to enforce a statute due to private constitutional
27 predilections... would convert all officials charged with executing statutes into
28

1 potential litigants, or attorneys general, as to laws within their charge.” *S. Lake*
2 *Tahoe*, 625 F.2d at 238.

3 The Law Enforcement Officials have therefore failed to allege anything other
4 than an “official” injury and therefore lack standing to bring the federal claims in
5 the SAC.

6 **II. THE COURT LACKS SUBJECT MATTER JURISDICTION OVER**
7 **PLAINTIFFS’ STATE LAW CLAIMS IN THE SIXTH AND SEVENTH CAUSES**
8 **OF ACTION**

9 The Sixth and Seventh Causes of Action, which allege claims under the
10 California Penal Code and California Constitution, should also be dismissed for
11 lack of subject matter jurisdiction.

12 First, this Court lacks any basis for jurisdiction over these claims. Plaintiffs
13 allege that the Court has federal question jurisdiction. SAC at 10 (citing 28 U.S.C.
14 §§ 1331, 1343). But district courts have federal question jurisdiction only over
15 claims “arising under the Constitution, laws, or treaties of the United States.” 28
16 U.S.C. § 1331. Claims generally “arise under” federal law only when (1) federal
17 law creates the cause of action, *see Mims v. Arrow Fin. Servs., LLC*, 565 U.S. 368,
18 377 (2012), or (2) the claim “necessarily raise[s] a stated federal issue, actually
19 disputed and substantial, which a federal forum may entertain without disturbing
20 any congressionally approved balance of federal and state judicial responsibilities,”
21 *Grable & Sons Metal Prods., Inc. v. Darue Eng’g & Mfg.*, 545 U.S. 308, 313
(2005).

22 Here, the Sixth and Seventh Causes of Action do not arise under federal law.
23 They allege violations of California Penal Code statutes and violations of the oath
24 of office mandated by the California Constitution. SAC at 56-61. Federal law
25 therefore does not create the causes of action. *See Mims*, 565 U.S. at 377. Nor do
26 the Sixth and Seventh Causes of Action meet the *Grable* requirements for “arising
27 under” federal law, including because neither claim “necessarily” raises a federal
28 issue. *See Grable*, 545 U.S. 308. Both claims may be resolved on state law

1 grounds based on a court’s interpretation of the parties’ rights and obligations (or
2 lack thereof) under SB 54, Penal Code sections 31 and 32, and the California
3 Constitution. The Court therefore lacks federal question jurisdiction over these
4 claims.⁷ And because, as explained above, Plaintiffs lack standing to bring their
5 other claims in the FAC, this Court also lacks supplemental jurisdiction over the
6 Sixth and Seventh Cause of Action under 28 U.S.C. § 1367(a).

7 Second, the Sixth and Seventh Cause of Action are barred by Defendants’
8 Eleventh Amendment immunity and state sovereign immunity. The Eleventh
9 Amendment bars claims in federal court brought by citizens against a state unless
10 the state has consented to the suit or Congress has abrogated the immunity.⁸ U.S.
11 CONST. amend. XI (“[t]he Judicial power of the United States shall not be construed
12 to extend to any suit in law or equity, commenced or prosecuted against one of the
13 United States by Citizens of another State, or by Citizens or Subjects of any
14 Foreign State”); *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 99-100
15 (1984). Eleventh Amendment immunity “extends to state agencies and to state
16 officers, who act on behalf of the state.” *NRDC v. Cal. Dep’t of Transp.*, 96 F.3d
17 420, 421 (9th Cir. 1996); *Pennhurst*, 465 U.S. at 101 (1984)).

18 Defendants have Eleventh Amendment immunity from Plaintiffs’ Sixth and
19 Seventh Causes of Action. Plaintiffs have not and cannot allege that this immunity

20
21 ⁷ Even if the Sixth and Seventh Causes of Action did necessarily involve any
22 federal issues, the claims would then be barred by *South Lake Tahoe*, which bars all
23 claims by political subdivisions against the State that “are based on the [U.S.]
Constitution.” *S. Lake Tahoe*, 625 F.2d at 234.

24 ⁸ For Eleventh Amendment purposes, courts have consistently considered
25 “citizens” to include political subdivisions of a state. *See City of San Juan*
26 *Capistrano v. California Pub. Utilities Comm’n*, 937 F.3d 1278, 1281 (9th Cir.
27 2019) (city’s claim barred by Eleventh Amendment immunity); *see also St. Charles*
28 *Cnty., Mo. v. Wisconsin*, 447 F.3d 1055, 1058 (8th Cir. 2006) (“a county is a
‘Citizen of another State’ for Eleventh Amendment purposes”); *Monroe Cnty. v.*
State of Fla., 678 F.2d 1124, 1131 (2d Cir. 1982) (same).

1 has been waived by the State or abrogated by Congress. *See Pennhurst*, 465 U.S. at
2 101 (1984). Nor does the *Ex Parte Young* exception to Eleventh Amendment
3 immunity apply to these claims. “The *Ex Parte Young* doctrine provides that the
4 Eleventh Amendment does not bar suits for prospective injunctive relief brought
5 against state officers in their official capacities, to enjoin an alleged ongoing
6 violation of *federal law*.” *Hason v. Med. Bd. of Cal.*, 279 F.3d 1167, 1171 (9th Cir.
7 2002) (emphasis added); *see also Ex Parte Young*, 209 U.S. 123 (1908). However,
8 the doctrine “does not apply when a suit seeks relief under state law.” *Doe v.*
9 *Regents of Univ. of Cal.*, 891 F.3d 1147, 1153 (9th Cir. 2018); *Pennhurst*, 465 U.S.
10 at 117 (“a federal suit against state officials on the basis of state law contravenes the
11 Eleventh Amendment”). Here, Plaintiffs seek relief in Sixth and Seventh Causes of
12 Action under state laws in the California Penal Code and California Constitution,
13 not under federal law. *Ex Parte Young* therefore does not apply to those claims.

14 In addition to Eleventh Amendment immunity, Defendants also have state
15 sovereign immunity from the Sixth and Seventh Causes of Action. An independent
16 form of immunity, state sovereign immunity also bars federal jurisdiction over suits
17 against nonconsenting states. *Alden v. Maine*, 527 U.S. 706, 713, 730 (1999). State
18 sovereign immunity is “a fundamental aspect of the sovereignty which the States
19 enjoyed before the ratification of the Constitution and which they retain today . . .
20 except as altered by the plan of the Convention or certain constitutional
21 amendments.” *Id.* at 713. State sovereign immunity provides immunity from suit,
22 as well as to all types of monetary and non-monetary liability. *Fed. Mar. Comm’n*
23 *v. S.C. State Ports Auth.*, 535 U.S. 743, 766, 122 S. Ct. 1864, 1877, 152 L. Ed. 2d
24 962 (2002). The immunity applies to suits against states and state officers named
25 in their official capacities. *See Alden*, 527 U.S. at 756 (“sovereign immunity is not
26 limited to suits which name the State as a party if the suits are, in fact, against the
27 State”); *Acres Bonusing, Inc v. Marston*, 17 F.4th 901, 908 (9th Cir. 2021) (claims
28 against defendants in their official capacities “although nominally against the

1 official, in fact is against the official's office and thus the sovereign itself" (internal
2 quotation marks omitted)). Certain exceptions to state sovereign immunity have
3 been recognized to "strike[] the proper balance between the supremacy of federal
4 law and the separate sovereignty of the States" *Alden*, 527 U.S. at 757. These
5 exceptions include claims to which states have consented, claims authorized by
6 Congress pursuant to section 5 of the Fourteenth Amendment, claims against
7 certain "lesser" entities within a state, and claims subject to the *Ex Parte Young*
8 exception to immunity. *Alden*, 527 U.S. at 756-57.

9 Here, Defendants all have state sovereign immunity from the state law claims
10 in the Sixth and Seventh Causes of Action. Plaintiffs allege these claims against
11 the State itself and Governor Newsom and Attorney General Bonta in their official
12 capacities. Plaintiffs do not and cannot allege that the State has waived its
13 immunity to these claims or that the immunity has been abrogated by Congress or
14 the Constitution. Moreover, no recognized exception to state sovereign immunity
15 applies. *Alden*, 527 U.S. at 756-57.

16 This Court therefore lacks subject matter jurisdiction over the Sixth and
17 Seventh Causes of Action. There is no basis for federal jurisdiction and, even if
18 there were, those claims are barred by Defendant's Eleventh Amendment immunity
19 and state sovereign immunity.

20 **III. DEFENDANT STATE OF CALIFORNIA IS IMMUNE TO ALL CLAIMS**

21 The State of California should be dismissed as a particular Defendant in this
22 action because it has Eleventh Amendment and state sovereign immunity to all
23 claims. As discussed above, the Eleventh Amendment bars suits in federal court by
24 citizens against a state. U.S. CONST. amend. XI; *Pennhurst*, 465 U.S. at 101.
25 Plaintiffs have not and cannot allege that the State of California has waived its
26 immunity or Congress has abrogated it. And the *Ex Parte Young* exception applies
27 to state officials only, not a state itself. *See Hason*, 279 F.3d at 1171. For similar
28

1 reasons, the State also has state sovereign immunity to Plaintiffs' claims. *See*
2 *Alden*, 527 U.S. at 756-57.

3 All claims in the SAC should therefore be dismissed against the State of
4 California.

5 **IV. THE COURT SHOULD DENY PLAINTIFFS LEAVE TO AMEND THE SECOND**
6 **AMENDED COMPLAINT**

7 Finally, the Court should deny Plaintiffs leave to amend the SAC. Where
8 amendment would be futile, a district court need not grant leave to amend. *See*
9 *Carrico v. City & County of San Francisco*, 656 F.3d 1002, 1008 (9th Cir. 2011).
10 Amendment would be futile here. As a per se rule, Plaintiffs' challenges to SB 54
11 under federal law are barred. *See S. Lake Tahoe*, 625 F.2d at 233-34. Plaintiffs'
12 remaining state law claims are barred by Defendants' immunity. Plaintiffs cannot
13 allege facts that would overcome these barriers.

14 **CONCLUSION**

15 For the reasons above, Plaintiffs' Second Amended Complaint should be
16 dismissed for lack of subject matter jurisdiction.

17
18
19 Dated: June 2, 2025

Respectfully submitted,

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22 ANTHONY R. HAKL
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23
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CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Defendants, certifies that this brief contains 6,283 words, which:

 X complies with the word limit of L.R. 11-6.1.

 complies with the word limit set by court order dated [date].

Dated: June 2, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

Case **City of Huntington Beach,** Case **8:25-cv-00026-SSS-PD**
Name: **et al. v. The State of** No.
California, et al.

I hereby certify that on June 2, 2025, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

***MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
MOTION TO DISMISS SECOND AMENDED COMPLAINT***

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on June 2, 2025, at Los Angeles, California.

Cecilia Apodaca
Declarant

/s/ Cecilia Apodaca
Signature

SA2025300103

AG Cert of Service CM ECF no paper filers.docx