EXHIBIT D

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

THE UNITED STATES OF AMERICA, Plaintiff, v. THE STATE OF CALIFORNIA; EDMUND GERALD BROWN JR., Governor of California, in his Official Capacity; and XAVIER BECERRA, Attorney General of California, in his Official Capacity, Defendants.	Civil Action No.

DECLARATION OF CARL C. RISCH

1. I am Assistant Secretary of State for Consular Affairs. I make this declaration based on my personal knowledge and on information I have received in my official capacity.

2. I have served as Assistant Secretary of State for Consular Affairs since August 11, 2017. Prior to assuming my position at the Department of State, I served in various capacities at U.S. Citizenship and Immigration services beginning in 2006. I hold a Juris Doctor degree from the Dickinson School of Law. I am a licensed attorney and am admitted to the Bar in the District of Columbia.

3. In my capacity as Assistant Secretary of State for Consular Affairs, I assist the Secretary of State in the formulation and conduct of U.S. foreign policy and giving general supervision to the Bureau of Consular Affairs.

4. I have read and am familiar with several recent laws enacted by California including the following:

- The "Immigrant Worker Protection Act," Assembly Bill 450 (AB 450), which restricts private employers from voluntarily cooperating with federal officials who seek to ensure compliance with the federal immigration laws in the workplace.
- Assembly Bill 103 (AB-103), which creates a broad "review" scheme applicable only to facilities holding civil immigration detainees on the Federal Government's behalf.

- The "California Values Act," Senate Bill 54 (SB 54), which precludes local officials from providing information to the Federal Government about the release date of aliens who may be subject to removal or transferring aliens to the Federal Government when they are scheduled to be released from state or local custody.

5. As I explain further below, U.S. federal immigration law incorporates foreign relations concerns by providing a comprehensive range of tools for regulating entry and enforcement. These may be employed with sensitivity to the spectrum of foreign relations interests and priorities of the national government. By contrast, these laws establish a state-specific immigration policy that is not responsive to these concerns. If allowed to stand, the laws identified in paragraph 4 above could have negative consequences for U.S. foreign relations by diluting the content of U.S. government communications to foreign governments concerning this Administration's priority in seeking cooperation from foreign governments to accept the return of their foreign nationals who are subject to final orders of removal.

6. Through the Immigration and Nationality Act ("INA") and other federal laws, the national government has developed a comprehensive regime of immigration regulation, administration, and enforcement, in which the Department of State participates. This regime is designed to accommodate complex and important U.S. foreign relations priorities that are implicated by immigration policy – including humanitarian and refugee protection, access for diplomats and official foreign visitors, national security and counterterrorism, criminal law enforcement, and the promotion of U.S. policies abroad. To allow the national government flexibility in addressing these concerns, the INA provides the Executive Branch with a range of regulatory options governing the entry, treatment and departure of aliens. Moreover, foreign governments' reactions to immigration policies and the treatment of their nationals in the U.S. impacts not only immigration matters, but also any other issue in which we seek cooperation with foreign states, including on international trade, tourism, and security cooperation. These foreign relations priorities and policy impacts are ones to which the national government is sensitive in ways that individual states are not.

7. The Secretary of State is charged with the day-to-day conduct of U.S. foreign affairs, as directed by the President, and exercises authority derived from the President's powers to represent the United States under Article II of the Constitution and from statute. As part of these responsibilities, the Department of State plays a substantial role in administering U.S. immigration law and policy, as well as in managing and negotiating its foreign relations aspects and impact. Within the Department of State, the Bureau of Consular Affairs has responsibility for the adjudication and issuance of passports, visas, and related services; protection and welfare of U.S. citizens and interests abroad; third-country representation of interests of foreign governments; and the determination of nationality of persons not in the United States. See 1 Foreign Affairs Manual 250. Several other bureaus within the Department of State, including the Bureau of Population, Refugees and Migration; the Bureau of Human Rights, Democracy and Labor; the Bureau of International Organization Affairs; and all regional bureaus are routinely engaged in negotiations and multilateral diplomatic and policy work in global, regional, and bilateral forums on migration issues. Collectively, the Department of State promotes U.S. policies internationally in this area and bears the burden of managing foreign governments' reactions to and understanding of policies that impact foreign nationals.

8. U.S. law, and particularly Section 104 of the INA, as amended by the Homeland Security Act, invests the Secretary of State with specific powers and duties relating to immigration and nationality. A 2003 Memorandum of Understanding Between the Secretaries of State and Homeland Security Concerning Implementation of Section 428 of the Homeland Security Act of 2002 (MOU), ¶ 1(b), provided that the Secretary of Homeland Security would establish visa policy, review implementation of that policy, and provide additional direction as provided in the MOU, while respecting the prerogatives of the Secretary of State to lead and manage the consular corps and its functions, to manage the visa process, and to execute the foreign policy of the United States.

9. The Secretary of State's authorities under the INA are found in various provisions, including §§ 104, 105, 349(a)(5), 358, and 359 (8 U.S.C. §§ 1104, 1105, 1481(a)(5), 1501, and 1502) (visa and other immigration-related laws). The Department also exercises passport-related authorities, including those found at 22 U.S.C. §§ 211a, et seq.

10. In all activities relating to U.S foreign relations, including immigration, the United States is constantly engaged in weighing multiple competing considerations and choosing among priorities in order to develop an overall foreign policy strategy that will most effectively advance U.S. interests. The United States likewise is constantly seeking the support of foreign governments through a delicately-navigated balance of interests across the entire range of U.S. national policy goals. Only the national government has the information available to it to be able to appropriately evaluate these choices on a continuing basis in response to fluctuating events on the international stage. Because of the broad-based and often unintended ways in which U.S. immigration policies can adversely impact our foreign relations, it is critically important that national immigration policy – including immigration enforcement – be governed by a uniform legal regime, and that decisions regarding the development and enforcement of immigration policy be made by the national government, so that the United States can speak to the international arena with one voice in this area.

11. When states and localities assist the federal government, and take measures that are in line with federal priorities, then the United States retains its ability to speak with one voice on matters of immigration policy, which in turn enables it to keep control of the message it sends to foreign states and to calibrate responses as it deems appropriate, given the ever-changing dynamics of foreign relations.

12. Given the diplomatic, legal, and policy sensitivities surrounding immigration issues, even small changes or differences across states in immigration laws, policies, and practices can have ramifications for our ability to communicate our foreign policy in a single voice – both in the immigration context and across American diplomatic concerns. It is for this reason that, although federal law recognizes that states and localities may play beneficial roles in assisting in the enforcement of federal immigration law, *see* INA § 287(g)(1) (8 U.S.C. § 1357(g)(10)), the authority to directly regulate immigration has been assigned exclusively to the federal government.

13. Removal of aliens subject to final orders of removal is a top priority for this Administration. The Department of State and ICE work together closely on these matters, and in particular the Department of State is often on the front lines seeking the cooperation of other governments to accept their nationals. Department of State officials raise these issues in bilateral channels, with Foreign Mission personnel in Washington, D.C. and through our diplomats in foreign capitals. Some countries cooperate closely with the United States by timely issuing travel documents for their nationals, coordinating with ICE on dates and times of travel, and generally facilitating their return. Other countries either delay or deny return of their nationals. For this reason, the INA provides for visa sanctions to be imposed on uncooperative countries. INA § 243(d) (8 U.S.C. 1283(d)).

14. By imposing requirements on the federal government such as a search warrant to enter premises to enforce U.S. immigration law, or precluding notice or transfer to federal authorities for removal proceedings, California law deviates from the national government's policies of strict immigration enforcement and removal of aliens. The California law establishes a distinct state-specific immigration policy, driven by an individual state's own policy choices, which risks not only undermining federal immigration enforcement efforts, but also has the potential to interfere with efforts to communicate to foreign governments the need to take back their nationals who are subject to final orders of removal.

15. The California laws referenced in paragraph 4, above, also hamper U.S. government efforts to speak with one voice to foreign governments on matters of deportation and removal. In particular, the intent behind these laws and the practical effects may interfere with actual removal efforts and dilute the messages the U.S. government communicates to foreign governments concerning their need to cooperate with the United States on removal of their nationals who are subject to final orders of removal. Efforts to remove individuals or groups of individuals could be scuttled at the last minute by California's restrictions on ICE's ability to obtain custody of them. This could undermine ICE's credibility with the foreign government and make that country less willing to cooperate in the future. More importantly, the California laws dilute the force of the messages the United States routinely communicates to foreign governments concerning the Administration's priority of removing aliens subject to final orders of removal, which has the potential to damage the U.S. Government's credibility and make our efforts to seek their cooperation less effective.

16. Accordingly, after having reviewed the California laws in question and considered the factors enumerated above, I have concluded that the laws could have ongoing negative consequences for U.S. foreign relations.

I declare under penalty of perjury that the foregoing is true and correct to the best of my information, knowledge and belief. Executed the 06 day of March, 2018 in Washington, D.C.

Carl C. Risch