

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff-Appellant,

v.

STATE OF CALIFORNIA; GAVIN NEWSOM,
in his official capacity as Governor of
California; ROBERT BONTA, *in his official*
capacity as Attorney General of California,

Defendants-Appellees.

No. 26-926

CIRCUIT RULE 27-3 CERTIFICATE

The undersigned counsel certifies that the following is the information required by Circuit Rule 27-3:

(1) Attorneys' contact information

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(2) Existence and nature of the emergency

On February 9, 2026, the district court denied a preliminary injunction against a patently unconstitutional California law that purports to require federal law enforcement officers to display visible identification, backed by criminal penalties—notwithstanding the federal government's view that, to protect the safety of law enforcement officers and for operational purposes, it is sometimes necessary for Immigration and Customs Enforcement officials and other federal law enforcement officials to conceal their identities and/or agency associations while engaged in federal law-enforcement activities. The accompanying motion requires resolution on an emergency timeframe because the district court's order leaves in place California's law purporting to directly regulate the federal government contrary to settled intergovernmental immunity principles. It also subjects federal officials conducting federal law enforcement operations to potential criminal prosecution by the State of California. Although California agreed not to enforce these laws against the federal government while the preliminary injunction motion was pending, that stipulation expires on February 19 at noon.

The accompanying motion could not have been filed earlier. The district court entered its order on February 9. Pursuant to Fed. R. App. P. 8(a)(1)(C), the United States filed a motion for an injunction pending appeal in the district court on February 17, 2025. Because the district court has not yet ruled on the motion and the stay of enforcement referenced above will expire tomorrow at noon, we are filing the motion for an injunction pending appeal in this Court now, and respectfully request relief—if necessary, in the form of a temporary administrative injunction pending full consideration of this motion—by February 19 at noon.

(3) Notice to opposing parties

Prior to filing this motion, counsel for plaintiff contacted counsel for defendants and informed them of plaintiff's intent to seek an injunction pending appeal and an emergency temporary administrative injunction. Defendants oppose both an injunction and an administrative injunction. Upon filing this motion, plaintiffs will provide a service copy to defendants' counsel via email.

(4) Relief sought in district court

Plaintiff filed a motion for an injunction pending appeal on February 17. The district court has not yet ruled on that motion. We will promptly notify this Court when the district court rules.

/s/ Andrew M. Bernie
ANDREW M. BERNIE