

No. 25-3727

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

GAVIN NEWSOM, *et al.*,
Plaintiffs-Appellees,

V.

DONALD TRUMP, *et al.*,
Defendants-Appellants.

**On Appeal from the United States District Court
for the Northern District of California**

No. 3:25-cv-04870

The Honorable Charles R. Breyer

**APPELLEES' OPPOSITION TO APPELLANTS' MOTION FOR
ADMINISTRATIVE STAY AND PROPOSED BRIEFING SCHEDULE
FOR MOTION FOR STAY PENDING APPEAL**

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June 12, 2025

**OPPOSITION TO MOTION FOR ADMINISTRATIVE STAY AND
PROPOSED BRIEFING SCHEDULE ON MOTION FOR STAY PENDING
APPEAL**

Earlier today, the district court entered a temporary restraining order blocking a decision by President Donald Trump to federalize 4,000 members of the California National Guard. Order at 35. As the district court recognized, *see id.* at 9-26, 29-31, the Plaintiffs State of California and Governor Gavin Newsom (Plaintiffs) are likely to succeed in showing that Defendants unlawfully federalized the National Guard for deployment on the streets of Los Angeles. Plaintiffs have also demonstrated that judicial relief is necessary to prevent irreparable harm to the State, *see id.* at 31-33, and that the balance of the equities and public interest support Plaintiffs' request for an injunction, *see id.* at 33-35.

This evening, Defendants filed a motion for a stay pending appeal and also sought an administrative stay pending resolution of that motion. Plaintiffs oppose the request for an administrative stay and ask the Court to set an expedited briefing schedule to resolve the motion for a stay pending appeal. An administrative stay is unnecessary and unwarranted in light of the district court's extensive reasoning—in particular, its findings of irreparable harm to the State in the absence of injunctive relief. There are also serious questions regarding the appellate jurisdiction of this Court over Defendants' appeal from a temporary restraining order, especially in light of the hearing on the preliminary injunction scheduled for

Friday, June 20. *See generally Serv. Emps. Int'l Union v. Nat'l Union of Healthcare Workers*, 598 F.3d 1061, 1067 (9th Cir. 2010) (“Ordinarily, temporary restraining orders are not appealable interlocutory orders.”).

With respect to Defendants’ motion for a stay pending appeal, Plaintiffs request the opportunity to file a fully reasoned opposition before the Court considers granting any form of relief to Defendants. Defendants recently requested and obtained a similar opportunity before the district court: After Plaintiffs filed a motion seeking an immediate ex parte restraining order, Defendants requested 24 hours to prepare and file an opposition. *See* D. Ct. Dkt. 12 at 1. The district court granted that request. *See* D. Ct. Dkt. 14. Consistent with that approach, Plaintiffs respectfully propose the following expedited briefing schedule for resolution of Defendants’ motion for a stay pending appeal:

- Friday, June 13, 2025, at 7 p.m.: Deadline for Plaintiffs’ opposition to the motion for a stay pending appeal;
- Saturday, June 14, 2025, at 12 p.m.: Deadline for Defendants’ optional reply in support of the motion for a stay pending appeal.

CONCLUSION

The motion for an immediate administrative stay should be denied. The Court should instead impose an expedited briefing schedule, with Plaintiffs' opposition to the motion for a stay pending appeal due by 7 p.m. on June 13, 2025, and Defendants' optional reply brief due by 12 p.m. on June 14, 2025.

Dated: June 12, 2025

Respectfully submitted,

s/ Samuel T. Harbourt

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CERTIFICATE OF COMPLIANCE

This opposition contains 467 words. I further certify that the motion's type size and typeface comply with Federal Rule of Appellate Procedure 27(d)(1)(E) because it has been prepared in 14-point Times New Roman font.

Dated: June 12, 2025

s/ Samuel T. Harbourt
Samuel T. Harbourt