



C A L I F O R N I A
DEPARTMENT OF JUSTICE

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October 7, 2025

Via ACMS

Molly Dwyer, Clerk of Court
Office of the Clerk
U.S. Court of Appeals for the Ninth Circuit
P.O. Box 193939
San Francisco, CA 94119-3939

RE: *Newsom v. Trump*, No. 25-5553 (Posse Comitatus Act Appeal)
Developments Bearing on Pending Motion for Stay Pending Appeal

Dear Ms. Dwyer:

Plaintiffs alert the Court to developments that significantly undermine defendants' pending motion for a stay pending appeal. Defendants alleged irreparable harm based on their belief that "National Guard members *who remain in Los Angeles* continue to play an important role in protecting federal personnel and property . . . and the district court's injunction threatens their ability to serve that function." Stay Reply 10 (emphasis added); *see* Stay Motion 21-22.

In recent days, however, plaintiffs learned that defendants planned to order all 300 federalized California National Guard members to Portland, Oregon. *See Oregon v. Trump*, Dkt. 60, No. 3:25-cv-1756 (D. Or. Oct. 5, 2025). Counsel for defendants stated in the District of Oregon that 200 California Guard troops "have been or are presently being relocated to Portland." TRO Tr. 5:22-24 (Oct. 5, 2025). Although defendants appear to have changed their plans and kept some number of troops in California, *see id.* at 5:24-25, their actions show they no longer have any basis for suggesting irreparable harm here. Defendants plainly have no pressing need for the troops in Los Angeles if they are willing to send all or most of them to Portland.

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Defendants’ actions also show that a stay would be inequitable and contrary to the public interest. Defendants ordered the troops to Oregon in an attempt to evade a TRO issued in the District of Oregon. That court enjoined the federalization of Oregon’s Guard because defendants “did not have a ‘colorable basis’” to invoke Section 12406. *Oregon*, Dkt. 56 at 23. “The President’s determination [to the contrary] was simply untethered to the facts.” *Id.* Defendants’ deployment of California’s Guard to Oregon—designed to serve the very purpose that a federal court deemed unlawful and unnecessary—represents a remarkable, unprecedented effort to circumvent a judicial order and undermine the rule of law. *Cf.* TRO Tr. 6:6-8 (Immergut, J.) (“[H]ow could bringing in federalized National Guard in California not be in direct contravention of the TRO I issued yesterday?”).

The Court should lift its administrative stay forthwith and deny defendants’ motion for a stay pending appeal.

Sincerely,

s/ Christopher D. Hu

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For ROB BONTA
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