



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

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September 29, 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. 25-3727
Stay order issued (June 19, 2025)
En banc call and supplemental briefing ordered (July 11, 2025)
Developments Bearing on Pending Appeal and En Banc Consideration

Dear Ms. Dwyer:

Plaintiffs submit this letter to update the Court on an important development that bears on arguments advanced in plaintiffs' pending request for the Court to grant en banc review (Dkt. 48) and their answering brief (Dkt. 63). On June 7, President Trump authorized Defense Secretary Hegseth to federalize the National Guard in response to protests and related incidents that occurred on June 6-7 in Los Angeles. ER-190-191. As plaintiffs have explained, that June 7 memorandum was "not limited to Los Angeles, or even to California." En Banc Request 2. Plaintiffs thus warned that the reasoning in this Court's published June 19 stay order would invite the President and Secretary Hegseth to deploy the National Guard in other communities across this Circuit, in violation of 10 U.S.C. § 12406, the Posse Comitatus Act, and longstanding democratic traditions. *See, e.g.*, Answering Br. 25-26, 56-58; En Banc Request 2, 6.

That prediction has materialized. On September 27, President Trump directed Secretary Hegseth "to provide all necessary Troops to protect War ravaged Portland, and any of our ICE Facilities under siege from attack by Antifa, and

September 29, 2025

Page 2

other domestic terrorists.” *Oregon v. Trump*, No. 3:25-cv-01756 (D. Or.), Dkt. 9-12. Yesterday, Secretary Hegseth carried out that directive by federalizing 200 members of Oregon’s National Guard. *Id.*, Dkt. 1-2. Rather than providing any new justification, the Secretary purported to “further implement[]” the June 7 memorandum. *Id.*

Defendants apparently believe that the June 7 memorandum—issued in response to events in Los Angeles—indefinitely authorizes the deployment of National Guard troops anywhere in the country, for virtually any reason. It is time to end this unprecedented experiment in militarized law enforcement and conscription of state National Guard troops outside the narrow conditions allowed by Congress. *See, e.g.*, En Banc Request 6-9; Answering Br. 51-52. As long as this Court’s published stay order, including its “highly deferential standard of review,” remains in place, defendants will be emboldened to press forward with plans to deploy troops for law-enforcement purposes across our Nation. *See, e.g.*, Answering Br. 2, 11-13, 51-52.

Sincerely,

s/ Christopher D. Hu

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For ROB BONTA
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