No. 25-3727

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

GAVIN NEWSOM, *in his official capacity as Governor of the State of California*; STATE OF CALIFORNIA,
Plaintiffs-Appellees,

v.

DONALD J. TRUMP, *in his official capacity as President of the United States*; PETER HEGSETH, *in his official capacity as Secretary of the Department of Defense*; UNITED STATES DEPARTMENT OF DEFENSE,
Defendants-Appellants.

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

DEFENDANTS-APPELLANTS' MOTION TO DISMISS

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Pursuant to Federal Rule of Appellate Procedure 42(b)(2), defendants move to dismiss the above-captioned appeal, with each party to bear its own costs.[1] Plaintiffs oppose the motion to dismiss and plan to file an opposition with the Court before the applicable deadline.

Respectfully submitted,

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[1] On January 14, this Court entered an order directing the parties to file supplemental briefs by January 28 addressing "(1) whether this appeal is moot and (2) the effect on this appeal of *Trump v. Illinois*, No. 25A443 (U.S. Dec. 23, 2025)." Defendants understand the filing of this motion to stay the deadline for that brief. Ninth Cir. Rule 27-11(a)(1).

CERTIFICATE OF COMPLIANCE

This motion complies with the type-volume limit of Federal Rule of Appellate Procedure 27(d)(2)(A) and Local Rules 27-1(d) and 32-3 because it contains 102 words. This brief also complies with the typeface and type-style requirements of Federal Rule of Appellate Procedure 32(a)(5)-(6) because it was prepared using Word for Microsoft 365 in Times New Roman 14-point font, a proportionally spaced typeface.

/s/ J. Kain Day
J. Kain Day