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February 6, 2026

Via ECF

Molly Dwyer, Clerk of Court
United States Court of Appeals for the Ninth Circuit
95 Seventh Street
San Francisco, CA 94103

Re: *KalshiEX, LLC v. Hendrick*, 9th Cir. No. 25-7516

Dear Ms. Dwyer:

State Defendants respectfully advise the Court that they intend to begin a civil enforcement proceeding against Kalshi on February 17, 2026.

On December 17, 2025, Kalshi filed a motion for a stay pending appeal with this Court. Dkt. 17.1. At that time, Kalshi advised the Court that State Defendants had indicated they would not initiate enforcement proceedings against Kalshi while this Court considered Kalshi's stay motion. *Id.* at 9. Kalshi's stay motion was fully briefed as of January 5, 2026. Dkt. 28.1. On January 27, 2026, the Court referred Kalshi's motion to the panel assigned to decide the merits of this appeal. Dkt. 42.1.

Since filing its stay motion, Kalshi has continued to dramatically expand its business, rather than attempting to maintain any kind of status quo. Kalshi has massively increased its trading volumes,¹ and has aggressively (and wrongly) marketed its sports bets as "100% legal" in "all 50 States."² As the district court found, every day that Kalshi operates in violation of Nevada law causes "substantial irreparable harms to [State Defendants], the State of Nevada, the gaming industry in this state, and the public interest." Dkt. 17.2, at 27. Kalshi's continued operation harms the public because Kalshi offers sports betting but does not comply with "the same rigorous regulations

¹ Geoff Zochodne, *Prediction Markets See Super Bowl Betting Surge to New Highs*, Yahoo! Sports (Feb. 9, 2026), perma.cc/TMG7-ERYK (noting that Kalshi's trading volumes for this year's Super Bowl were nearly twenty times higher than last year's).

² Kalshi, *Game On: Kalshi Brings 100% Legal Sports Trading to All 50 States* (Jan. 24, 2025), perma.cc/22KU-N9BY.

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and oversight as the licensed entities in this state”—a situation that gives Kalshi an unfair advantage over other sportsbooks. *Id.* at 27-28.

State Defendants have a statutory obligation to evenhandedly and equitably apply state gaming laws. NRS §§ 463.140, 463.0129(c). Accordingly, State Defendants have diligently sought to enforce state gaming laws evenhandedly against both Kalshi and its competitors. As a result of State Defendants’ efforts, the district court denied preliminary injunctive relief to Kalshi, Crypto.com, and Robinhood.³ Crypto.com and Robinhood then voluntarily agreed to stop operating in Nevada while their appeals are pending. *See* Dkt. 23.1, at 19. State Defendants also brought civil enforcement actions against Polymarket and Coinbase in Nevada state court once those companies began operating unlawfully in Nevada, and the state courts entered temporary restraining orders to stop both companies’ unlicensed operations. *See* Dkt. 57.1. Like the district court in this case, the state courts explained that each day that Polymarket and Coinbase operate unlawfully in Nevada causes immediate injury to the State and the public that “cannot be mitigated” once incurred: “A day means more consumers. More consumers mean more transactions. More transactions means more potential harm.” Order at 7, *Nevada v. Blockratize, Inc.*, No. 26-OC-00012-1B (Nev. 1st Jud. Dist. Jan. 29, 2026). “[E]very day” thus matters “in a literal sense.” *Id.*

To State Defendants’ knowledge, Kalshi is the only prediction market currently operating in Nevada. Its continued operation harms the State and the public every day and poses an existential threat to the State’s gaming industry. While State Defendants initially agreed to temporarily forego enforcement against Kalshi during the pendency of its stay motion, Kalshi’s own actions now compel State Defendants to take action to stop Kalshi’s unlawful behavior. No court order currently prevents State Defendants from taking enforcement action against Kalshi. At this point, failing to enforce Nevada state law against Kalshi would effectively grant Kalshi the stay it seeks despite the district court’s findings that Kalshi is unlikely to succeed on the merits and is causing irreparable harm to Nevada, its gaming industry, and the public. *See* Dkt. 17.2, at 24.

In order to fulfill their statutory obligation to evenhandedly enforce Nevada’s gaming laws and to protect the public, State Defendants intend to file a civil enforcement action against Kalshi in state court on February 17, 2026. State Defendants have no objection to the Court’s decision to defer consideration of Kalshi’s stay motion to the merits stage of the appeal, but they have an

³ Dkt. 17.2, at 30; *Robinhood Derivatives LLC v. Dreitzer*, 2025 WL 3283308, at *2 (D. Nev. Nov. 25, 2025); *N. Am. Derivatives Exch., Inc. v. Nevada Gaming Control Bd.*, 2025 WL 2916151, at *14 (D. Nev. Oct. 14, 2025).

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obligation to begin a state enforcement action in the meantime. If the Court decides to rule on the stay motion now as a result, State Defendants respectfully submit that the motion should be denied for the reasons set out in the district court's decision and State Defendants' opposition to the stay motion.

Respectfully,
/s/ Jessica E. Whelan
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