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11 **UNITED STATES DISTRICT COURT**
 12 **DISTRICT OF NEVADA**

13 STATE OF NEVADA ex rel. NEVADA
 14 GAMING CONTROL BOARD,

15 Plaintiff,

16 vs.

17 KALSHIEX, LLC

18 Defendant,

Case No. 2:26-cv-00406-APG-MDC

**DECLARATION OF JESSICA E.
 WHELAN IN SUPPORT OF
 PLAINTIFF’S EMERGENCY MOTION
 TO REMAND**

19 I, Jessica E. Whelan, declare as follows:

20 1. I am the Chief Deputy Solicitor General—Litigation in the Nevada Attorney
 21 General’s Office, and I make this declaration in support of Plaintiff’s Emergency Motion to
 22 Remand. All facts stated herein are based on my personal knowledge.

23 2. Defendant KalshiEX LLC (Kalshi) operates a market that offers event-based
 24 contracts relating to sporting and other events. Compl. ¶ 20. These events include, but are
 25 not limited to, college basketball games, college and professional football games, and
 26 elections. *Id.* These contracts are offered for sale to persons located in Nevada. *Id.* ¶ 2.

27 3. Kalshi’s activities meet the definition of a “game” subject to regulation in
 28 Nevada—specifically, it operates a “sports pool” under Nevada law by offering “wagers” on

1 sports and other events. *See* Compl. ¶¶ 19–21, 37–42. But despite conducting gaming
2 accessible in the State of Nevada, Kalshi is not licensed in Nevada and does not comply
3 with Nevada gaming law. *Id.* ¶ 26. It has not undergone Nevada’s rigorous licensing process
4 for its gaming activities, nor does it comply with the restrictions and requirements of
5 Nevada law for operators of sports pools. *See id.* ¶¶ 26, 36.

6 4. In March 2025, the Nevada Gaming Control Board (Board) sent Kalshi a
7 cease-and-desist letter seeking to stop Kalshi from accepting wagers from persons inside
8 Nevada without a gaming license. Compl. ¶ 61. Kalshi filed a lawsuit in this Court, seeking
9 a preliminary injunction. In November 2025, the Court ruled that Kalshi was not entitled
10 to a preliminary injunction. *KalshiEX LLC v. Hendrick*, 2025 WL 3286282, at *13 (D. Nev.
11 Nov. 24, 2025). That case has been appealed to the Ninth Circuit, where a motion for an
12 injunction pending appeal is pending. *See* Motion, *KalshiEX LLC v. Hendrick*, No. 25-7516
13 (9th Cir. Dec. 17, 2025) (ECF No. 17.1). The Ninth Circuit denied Kalshi’s request for an
14 administrative stay. *See* Order, *KalshiEX LLC v. Hendrick*, No. 25-7516 (9th Cir. Feb. 17,
15 2026) (ECF No. 69.1).

16 5. On February 17, 2026, the Nevada Gaming Control Board filed a complaint
17 against Kalshi in the First Judicial District Court for Carson City. *See* ECF No. 8-1
18 (Compl.). That same day, the Board moved for a temporary restraining order and a
19 preliminary injunction. *See* ECF No. 8-2. Within hours of filing and within minutes of being
20 provided a courtesy copy of the filing by email, Kalshi filed a notice of removal to this Court.

21 6. The Board’s motion to remand should be heard on an emergency basis so that
22 the state court with jurisdiction over this civil enforcement action can enjoin Kalshi’s illegal
23 gambling operations in Nevada. As Kalshi previously indicated, the only court that “could
24 affect [its] ongoing operations in the State” is the state court in an “enforcement”
25 proceeding. Reply at 9–10, *KalshiEX LLC v. Hendrick*, No. 2:25-cv-575 (D. Nev. Jan. 9,
26 2026) (ECF No. 262),

27 7. As this Court previously found, every day Kalshi operates in violation of
28 Nevada law imposes “substantial irreparable harms to the Board, the State of Nevada, the

1 gaming industry in this state, and the public interest.” *KalshiEX LLC v. Hendrick*, 2025
2 WL 3286282, at *13 (D. Nev. Nov. 24, 2025). And as the Nevada state courts have
3 determined, unlicensed and unregulated gaming operations like Kalshi’s mean that
4 underage people can gamble, allow unsuitable persons to run gaming operations, and
5 distort the gaming industry. Order at 6–7, *Nevada v. Blockratize, Inc.*, No. 26-OC-00012-
6 1B (Nev. 1st Jud. Dist. Jan. 29, 2026) (Polymarket TRO); *see* Order at 6–7, *Nevada v.*
7 *Coinbase Fin. Mkts., Inc.*, No. 26-OC-00030-1B (Nev. 1st Jud. Dist. Feb. 5, 2026). These
8 harms are accruing “each day” and “cannot be mitigated” once incurred. Polymarket TRO
9 6–7.

10 8. Kalshi’s unlicensed gaming threatens the public fisc. Kalshi avoids taxes and
11 diverts business from licensed sportsbooks that pay taxes. *Hendrick*, 2025 WL 3286282, at
12 *14 (D. Nev. Nov. 24, 2025). This is “devastating [to] the Nevada economy and related tax
13 revenues.” *Id.* Kalshi’s profit from unlicensed gaming also incentivizes others to enter into
14 prediction markets instead of becoming (or remaining) licensed—indeed, two competitors
15 already have done so. *Id.*

16 9. Movant’s counsel are Jessica E. Whelan, Chief Deputy Solicitor General—
17 Litigation, John S. Michela, Senior Deputy Attorney General, and Sabrena K. Clinton,
18 Senior Deputy Attorney General. Their office address is State of Nevada, Office of the
19 Attorney General, 1 State of Nevada Way, Suite 100, Las Vegas, NV 89119, and their
20 telephone number is (702) 486-3420.

21 10. Defendants’ counsel are Dennis L. Kennedy and Paul C. Williams. Their office
22 address is Bailey Kennedy, 8984 Spanish Ridge Avenue, Las Vegas, Nevada, 89148, and
23 their telephone number is (702) 562-8820. Defendants’ counsel also include Neal Kumar
24 Katyal, Joshua B. Sterling, and William E. Havemann, at Milbank LLP, 1101 New York
25 Avenue NW, Washington, D.C., 20005. Their telephone number is (202) 835-7500.
26 Defendants’ counsel additionally include Grant R. Mainland, Matthew Laroche, Andrew
27 Porter, and Nicole D. Valente, at Milbank LLP, 55 Hudson Yards, New York, NY 10001.
28 Their telephone number is (212) 530-5000.

