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16 ***[Additional Counsel on Following Page]***

17 *Attorneys for Plaintiffs American Society of Journalists and Authors, Inc.
18 and National Press Photographers Association*

19 UNITED STATES DISTRICT COURT
20 CENTRAL DISTRICT OF CALIFORNIA
21 WESTERN DIVISION

22 AMERICAN SOCIETY OF)
23 JOURNALISTS AND AUTHORS,)
24 INC. and NATIONAL PRESS)
25 PHOTOGRAPHERS ASSOCIATION,)
26 Plaintiffs,)
27 v.)
28 XAVIER BECERRA, in his official
capacity as Attorney General of the
State of California,
Defendant.

Case No.: 2:19-cv-10645-PSG-KS
Judge: Hon. Philip S. Gutierrez
Hearing Date: TBD
Time: TBD

**PLAINTIFFS' EX PARTE
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND
ORDER TO SHOW CAUSE WHY A
MOTION FOR PRELIMINARY
INJUNCTION SHOULD NOT
ISSUE**

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1 Plaintiffs American Society of Journalists and Authors, Inc. (ASJA), and
2 National Press Photographers Association (NPPA) hereby apply *ex parte* to the
3 Court pursuant to Federal Rule of Civil Procedure 65 and Local Rule 65-1 for a
4 Temporary Restraining Order enjoining Defendant and all of his agents,
5 representatives, employees, and all persons in active concert or participation with
6 him, from enforcing Assembly Bill 5's (AB 5) 35-submission limit and video
7 recording exclusion codified at Cal. Labor Code § 2750.3(c)(2)(B)(ix) and (x), as
8 well as any and all implementing administrative rules and regulations, and the
9 policies and practices by which Defendant enforces these provisions, pending the
10 Court's ruling on Plaintiffs' previously filed Motion for Preliminary Injunction. The
11 Motion for Preliminary Injunction is currently set to be heard on March 9, 2020, but
12 AB 5's 35-submission limit and video recording exclusion take effect on January 1,
13 2020.

14 This application is made on the grounds set forth in Plaintiffs' Motion for
15 Preliminary Injunction, and Memorandum in Support and exhibits attached thereto
16 (ECF No. 12, 22-26) that ASJA and NPPA are likely to prevail on the merits of their
17 claims, their members will suffer irreparable injury if preliminary relief is not
18 granted, and the balance of equities and consideration of the public interest weigh in
19 favor of granting preliminary relief. Further, other than issuance of a Temporary
20 Restraining Order, ASJA and NPPA have no adequate legal remedy to maintain the
21 status quo before the Court can resolve their pending Motion for Preliminary
22 Injunction. This application is also based on all pleadings and papers filed in this
23 action, the argument of counsel, and any further evidence the Court may consider at
24 or before a hearing regarding this Application or the hearing regarding the Order to
25 Show Cause and preliminary injunction.

26 In addition, in a similar case, on December 31, 2019, the United States District
27 Court for the Southern District of California issued a Temporary Restraining Order
28 enjoining Defendant Xavier Becerra, in his official capacity as Attorney General of

1 California, from enforcing AB 5 as to any motor carrier operating in California,
2 pending that court's resolution of the plaintiffs' motion for a preliminary injunction.
3 *California Trucking Association v. Becerra*, No. 3:18-cv-02458-BEN-BLM (S.D.
4 Cal. Dec. 31, 2019) (order granting temporary restraining order).¹ The necessity for
5 preliminary relief in this case is similar to *California Trucking Association*.

6 Counsel for ASJA and NPPA sought to avoid filing this *ex parte* application
7 by conferring with counsel for Defendant, first reaching out on December 23 and
8 27, 2019, after the Complaint and Motion for Preliminary Injunction were served,
9 and conferring with Defendant's counsel via phone and email when he returned to
10 the office on December 30, 2019. In so conferring, counsel for ASJA and NPPA
11 sought to stipulate to an agreement to expedite the preliminary injunction hearing or
12 to stay enforcement of the 35-submission limit and video recording exclusion noted
13 above. Defendant has refused to stipulate to either course of action. Therefore, the
14 filing of this *ex parte* application is necessary to maintain the status quo and prevent
15 imminent irreparable harm to ASJA's and NPPA's members. Counsel for ASJA and
16 NPPA advised counsel for Defendant of the date and substance of this Application
17 by email on December 31, 2019. Defendant's counsel informed ASJA and NPPA
18 that Defendant opposes this application.

19 DATED: December 31, 2019.

20 Respectfully submitted,

21 By /s/ Caleb R. Trotter

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¹ <https://www.courtlistener.com/recap/gov.uscourts.casd.599726/gov.uscourts.casd.599726.77.0.pdf>

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20 *Journalists and Authors, Inc., and National*
21 *Press Photographers Association*
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CERTIFICATE OF SERVICE

I hereby certify that on December 31, 2019, I caused a true and correct copy of the foregoing to be served on the following counsel for Defendant via facsimile and email:

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California Department of Justice
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Counsel for Defendant Xavier Becerra, in his official capacity at Attorney General of California

DATED: December 31, 2019.

By /s/ Caleb R. Trotter
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