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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 SOUTH BAY UNITED
11 PENTECOSTAL CHURCH, *et al.*,
12 Plaintiffs,

13 v.

14 GAVIN NEWSOM, in his official
15 capacity as the Governor of
16 California, *et al.*,

Defendants.

Case No. 20-cv-865-BAS-AHG

**ORDER DENYING PLAINTIFFS’
EX PARTE MOTION FOR AN
INJUNCTION PENDING APPEAL**

[ECF No. 36]

17 Plaintiffs South Bay United Pentecostal Church and Bishop Arthur Hodges III
18 filed a motion for temporary restraining order. (ECF No. 12.) On May 15, 2020, the
19 Court held a telephonic hearing on the motion and denied the motion. (ECF No. 32,
20 38 (transcript of hearing).) That same day, Plaintiffs filed a notice of appeal.
21 Plaintiffs also filed an ex parte motion seeking an injunction pending the appeal.
22 (ECF No. 36.)

23 Federal Rule of Appellate Procedure 8(a)(1) provides that “[a] party must
24 ordinarily move first in the district court for . . . (C) an order . . . granting an injunction
25 while an appeal is pending.” Fed. R. App. Proc. 8(a)(1). Federal Rule of Civil
26 Procedure 62(d) provides that “[w]hile an appeal is pending from an interlocutory
27 order or final judgment that grants, dissolves, or denies an injunction, the court may
28 suspend, modify, restore, or grant an injunction on terms for bond or other terms that

1 secure the opposing party's rights." Fed. R. Civ. P. 62(d). The standard for granting
2 an injunction pending appeal is generally the same as the standard for granting a
3 preliminary injunction. *Humane Soc'y of U.S. v. Gutierrez*, 523 F.3d 990, 991 (9th
4 Cir. 2008).

5 Having reviewed Plaintiffs' arguments, the Court **DENIES** the instant Motion
6 for the same reasons stated on the record at the telephonic hearing on Plaintiffs'
7 motion for temporary restraining order. (See ECF No. 38.)

8 **IT IS SO ORDERED.**

9 **DATED: May 18, 2020**

10 
11 **Hon. Cynthia Bashant**
12 **United States District Judge**