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Nixon Fights Against Appearance in Court

Los Angeles

Attorneys for Richard Nixon claimed yesterday that the former President's illness and executive privilege should shield him from being required to make a personal appearance in a law suit, the first such demand since his resignation.

The motion was made public in U. S. District Court in answer to a subpoena calling for Mr. Nixon to give a deposition in Santa Ana, September 24 in a civil suit challenging security measures taken for Mr. Nixon at a 1971 Billy Graham rally in Charlotte, N.C.

U.S. District Judge William P. Gray scheduled a hearing for next Monday on the motion to quash the subpoena.

The former President has

not appeared in public since August 9 when he flew to the West Coast the day he relinquished office. Mr. Nixon has secluded himself at his San Clemente estate.

The motion, signed by attorneys Herbert J. Miller Jr. and Raymond G. Larroca, said the former President's to the deposition.

"In the opinion of his personal physician, Mr. Nixon has in recent weeks shown serious signs of strain and physical fatigue," the motion said.

The second argument was that Mr. Nixon is protected by presidential privilege.

"A despotism by a former President as to matters concerning the conduct of his office or occurrences related thereto should not be ordered in a civil proceedings

when a claim of presidential privilege is asserted, (if there is) absent a clear, preliminary showing that the information sought does not fall within the privilege," the motion said.

Mr. Nixon also has been served with a subpoena to appear as a witness at the opening of the Watergate coverup trial in Washington, D.C. of H. R. Haldeman, John Ehrlichman, John Mitchell and three other former White House aides.

United Press