

1 Stuhlbarg Int'l Sales Co., Inc. v. John D. Brush & Co., Inc.,
2 240 F.3d 832, 839-40 (9th Cir. 2001); Winter v. Natural Resources
3 Defense Council, 129 S. Ct. 365, 375 (2008) (likelihood rather
4 than possibility of success on the merits required for issuance
5 of preliminary injunctive relief). These two alternatives
6 represent two points on a sliding scale, pursuant to which the
7 required degree of irreparable harm increases or decreases in
8 inverse correlation to the probability of success on the merits.
9 Roe v. Anderson, 134 F.3d 1400, 1402 (9th Cir. 1998); United
10 States v. Nutri-cology, Inc., 982 F.2d 394, 397 (9th Cir. 1992).

11 No matter which test is used, however, Plaintiff must first
12 demonstrate a significant threat of irreparable injury in order
13 to obtain preliminary injunctive relief. Simula, Inc. v.
14 Autoliv, Inc., 175 F.3d 716, 725 (9th Cir. 1999). That threat
15 must be imminent (Caribbean Marine Serv. Co. v. Baldrige,
16 844 F.2d 668, 674 (9th Cir. 1988)); a risk of irreparable harm in
17 the indefinite future is not enough. Midgett v. Tri-County
18 Metro. Transp. Dist. of Oregon, 254 F.3d 846, 850-51 (9th Cir.
19 2001).

20 The Court has reviewed Plaintiffs' Ex Parte Application for
21 Temporary Restraining Order. Plaintiffs have failed to show the
22 irreparable harm necessary to warrant equitable relief.
23 Moreover, adequate remedies exist at law. Thus, Plaintiffs' Ex
24 Parte Application for Temporary Restraining Order is DENIED.
25 Hearing on Plaintiffs' Motion for Preliminary Injunction is
26 hereby scheduled for **Friday, February 20, 2009, at 9:00 a.m.**

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1 The briefing schedule already prescribed shall remain in effect
2 such that any opposition or statement of non-opposition shall be
3 filed no later than **February 6, 2009, at 5:00 p.m.**, and any reply
4 shall be filed no later than **February 11, 2009, at 5:00 p.m.**

5 IT IS SO ORDERED.

6 Dated: February 5, 2009

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9 MORRISON C. ENGLAND, JR.
10 UNITED STATES DISTRICT JUDGE
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