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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

CHANTE C. PAPPION,

Plaintiff,

v.

R-RANCH PROPERTY OWNERS  
ASSOCIATION, a California Non-Profit  
Corporation; HAL GLOVER; MARK  
GRÖNBEMER; JOHN CROSBY; RON  
BUCHER; MARK PERRY; MICHAEL  
HORNE; RICKWEVER; and Does 1 - 10,

Defendants.

No. 2:13-cv-01146-TLN-CMK

**ORDER**

This matter is before this Court pursuant to Chante Pappion's ("Plaintiff") Ex Parte Motion for Temporary Restraining Order (ECF No. 16). Defendant R-Ranch Property Owners Association ("R-Ranch"), on behalf of itself and each of the Defendants opposes Plaintiff's motion. (ECF No. 18.) The Court has carefully considered the arguments raised by both parties and for the reasons set forth below denies Plaintiff's motion.

R-Ranch is a family oriented recreational property. Plaintiff alleges that she has a deed to 1/2500 share of the property and is entitled to use and enjoy the property and its amenities. (Compl., ECF No. 2 at ¶ 4.) On June 7, 2013, Plaintiff filed a complaint against Defendants alleging violations of the Americans with Disabilities Act, Unruh Civil Rights Act,

1 and California Disabled Persons Act (collectively referred to as “Disability Claims”). (ECF No.  
2 2.) Plaintiff is currently residing in her Recreational Vehicle (“RV”) within the property. (ECF  
3 No. 16-1 at 2.) On November 8, 2013, Defendants denied Plaintiff electricity access for her RV  
4 while at the subject property. (ECF No. 16-1 at 2.) On November 13, 2013, Plaintiff filed an ex  
5 parte motion for temporary restraining order alleging that Defendants deprived her of electricity  
6 to retaliate against her for filing claims against them. She further alleges that she pays an annual  
7 assessment of \$675 for continued use and enjoyment of the property, which entitles her to 30 days  
8 of complementary electricity use per year. Plaintiff asks this Court to enjoin Defendants from  
9 depriving her of electricity access. (ECF No. 16-1 at 3.) Defendants counter that Plaintiff was  
10 denied electricity access because her membership was suspended for failure to pay fines assessed  
11 prior to the initiation of this suit. (ECF No. 18.) Additionally, Defendants contend that Plaintiff  
12 cannot meet the standards required to obtain a temporary restraining order. (ECF No. 18.)

13           The general standard for granting injunctive relief requires balancing a plaintiff’s  
14 likelihood of success on the merits against the relative hardships to the parties. *Benda v. Grand*  
15 *Lodge Int’l Assoc. Machinest*, 584 F.2d 308, 314–15 (9th Cir. 1978). This balancing is a  
16 continuum, wherein the required showing of irreparable harm varies inversely with the  
17 probability of success. *Save Our Sonoran, Inc. v. Flowers*, 408 F.3d 1113, 1120 (9th Cir. 2005).  
18 The Supreme Court clarified the proper standard for granting or denying a preliminary injunction  
19 stating that “[a] plaintiff seeking a preliminary injunction must establish that he is likely to  
20 succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary  
21 relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.”  
22 *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008) (listing factors for preliminary  
23 injunction); *see also Lockheed Missile & Space Co., Inc. v. Hughes 6 Aircraft Co.*, 887 F. Supp.  
24 1320, 1323 (N.D. Cal. 1995) (“The standard for issuing a temporary restraining order is identical  
25 to the standard for issuing a preliminary injunction.”).

26           “A court issues a preliminary injunction in a lawsuit to preserve the status quo and  
27 prevent irreparable harm until the court has an opportunity to rule on the lawsuit’s merits.”  
28 *Devose v. Herrington*, 42 F.3d 470, 471 (8th Cir. 1994) (citing *Dataphase Sys., Inc., v. C L Sys.*,

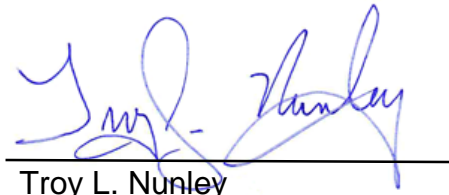
1 *Inc.*, 640 F.2d 109, 113 & n. 5 (8th Cir. 1981) (en banc)). Thus, a party moving for a preliminary  
2 injunction must necessarily establish a nexus between the character of the injury claimed in the  
3 party's motion for injunctive relief and the conduct asserted in the complaint. *Id.*; *see also Ashker*  
4 *v. Brown*, No. C 09-5796 CW, 2013 WL 1701702, at \*2–3 (N.D. Cal. Apr. 18, 2013); *see also*  
5 *Tatum v. Puget*, No. C 10-0418 LHK (PR), 2011 U.S. Dist. LEXIS 71576, at \*3 (N.D. Cal. July  
6 1, 2011); *Penn v. San Juan Hosp., Inc.*, 528 F.2d 1181, 1185 (10th Cir. 1975).

7           In the instant case, Plaintiff seeks injunctive relief concerning a matter that is of a  
8 different character than the claims raised in her complaint. Thus, if the Court were to grant  
9 Plaintiff's motion it would in effect be providing relief beyond that which Plaintiff would be  
10 entitled to should she prevail in her lawsuit. This approach is disfavored. *See Ashker*, 2013 WL  
11 1701702, at \*2–3; *see also Tatum*, 2011 U.S. Dist. LEXIS 71576, at \*3 (“[A] preliminary  
12 injunction may be granted only when the ‘intermediate relief [is] of the same character as that  
13 which may be granted finally.’”) (quoting *De Beers Consol. Mines v. United States*, 325 U.S.  
14 212, 220 (1945)). Thus, because Plaintiff's request for interim relief as stated in her motion is  
15 unrelated to Plaintiff's pending Disability Claims, it would be inappropriate for this Court to grant  
16 the relief sought. *See Stewart v. United States I.N.S.*, 762 F.2d 193, 198–99 (2d Cir. 1985)  
17 (holding that new assertions cannot provide the basis for a preliminary injunction); *Omega World*  
18 *Travel v. TWA*, 111 F.3d 14, 16 (4th Cir. 1997) (“The purpose of interim equitable relief is to  
19 protect the movant, during the pendency of the action, from being harmed or further harmed in  
20 the manner in which the movant contends it was or will be harmed through the illegality alleged  
21 in the complaint.”); *Devose*, 42 F.3d at 471 (“a party moving for a preliminary injunction must  
22 necessarily establish a relationship between the injury claimed in the party's motion and the  
23 conduct asserted in the complaint”); *Kaimowitz v. Orlando, Fl.*, 122 F.3d 41, 43 (11th Cir. 1997)  
24 (“A district court should not issue an injunction when the injunction in question is not of the same  
25 character, and deals with a matter lying wholly outside the issues in the suit.”). As such,  
26 Plaintiff's ex parte motion for a temporary restraining order (ECF No. 16) is DENIED.

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IT IS SO ORDERED.

Dated: November 15, 2013



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Troy L. Nunley  
United States District Judge