



1 and other nuisance conditions. Shree Shiva, LLC, through counsel, subsequently stipulated to the  
2 appointment of a Receiver, and the court issued a Receivership Order on January 22, 2016. The  
3 court-appointed Receiver took possession and control over the property, and determined that  
4 rehabilitation would require a cost-prohibitive degree of re-building and re-construction.  
5 Demolition of the building was also determined to be cost-prohibitive due to the presence of  
6 asbestos. The Receiver obtained court approval to sell the property “as-is” to a buyer willing and  
7 able to rehabilitate it. The property was sold on December 16, 2016. The Receiver continues to  
8 report to the court; the case remains open.<sup>1</sup>

9 The complaint alleges that the City’s actions (1) constitute a taking of property without  
10 just compensation, (2) violated procedural due process, (3) constituted a conspiracy with the  
11 Receiver, (4) violated the property access rights of the owners, and (5) violated the constitutional  
12 guarantee of equal protection. ECF No. 1 at 17-20. Plaintiff seeks monetary damages and  
13 declaratory and injunctive relief. Id. at 20.

## 14 II. DISCUSSION

15 Plaintiff has not identified a basis for his motion, in the Federal Rules of Civil Procedure  
16 or otherwise.<sup>2</sup> He seeks a court order invalidating the Receivership Order of the Shasta County  
17 Superior Court. This request cannot be construed as a motion for a preliminary injunction,  
18 because the requested order would neither maintain the status quo nor direct a party to the lawsuit  
19 to take action. See Arizona Dream Act Coalition v. Brewer, 757 F.3d 1053, 1060-61 (9<sup>th</sup> Cir.  
20 2014) (distinguishing between prohibitory injunctions and mandatory injunctions); see also Nken  
21 v. Holder, 556 U.S. 418, 428 (2009) (injunction is “means by which a court tells someone what to

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22 <sup>1</sup> The history of the nuisance abatement proceeding is thoroughly documented in defendant’s  
23 exhibits to its opposition to the motion, ECF No. 32-2. Defendant’s request for judicial notice of  
24 these documents, ECF No. 32, is granted. See United States v. Howard, 381 F.3d 873, 876 n.1  
25 (9<sup>th</sup> Cir. 2004) (court may judicially notice its own records and those of other courts); Fed. R.  
Evid. 201 (court may take judicial notice of facts that are capable of accurate determination by  
sources whose accuracy cannot reasonably be questioned).

26 <sup>2</sup> The moving papers, and plaintiff’s reply brief, largely recite plaintiff’s grievances with the  
27 City, the Receiver, and the Shasta County Superior Court. The merits of those disputes are not  
28 material to the threshold issues discussed above, which provide ample grounds to deny the  
motion. Defendant’s several additional arguments in opposition to the motion need not be  
considered.

1 do or not to do”). On the contrary, the motion seeks to upend the status quo and to do so by direct  
2 federal court fiat. The familiar standards for preliminary injunctive relief do not apply to such a  
3 request.<sup>3</sup>

4 It is axiomatic that the moving party must present a legal basis for extraordinary relief.  
5 Plaintiff has identified no authority for the proposition that a federal district court may “set aside”  
6 or otherwise vacate or invalidate an order of a state court in this context.<sup>4</sup> Accordingly, plaintiff’s  
7 motion is subject to summary dismissal as inadequately supported.

8 Moreover, it is clear that this court has no authority to grant the requested relief. The  
9 federal district court has no power to review the actions of the Shasta County Superior Court or to  
10 set aside its orders. Our Constitution contemplates a dual system of federal and state courts,  
11 which cannot function if federal courts intervene in state judicial proceedings. The state courts  
12 are constitutionally entitled to independence. Accordingly, state proceedings must normally  
13 continue unimpaired by intervention from the lower federal courts. Relief from state court error  
14 comes through the state appellate courts and ultimately, in some circumstances, from the U.S.  
15 Supreme Court. See Chick Kam Soo v. Exxon Corp., 486 U.S. 140, 146 (1988). Absent a  
16 specific constitutional or statutory grant of authority, which is absent here, this court simply has  
17 no authority to invalidate state court orders. The motion should be denied on this ground as well.

18 Finally, the requested relief is barred by the abstention doctrine first announced in  
19 Younger v. Harris, 401 U.S. 37, 45 (1971), which held that federal courts should not ordinarily  
20 enjoin pending criminal proceedings in state courts. The Younger abstention doctrine is based on  
21 considerations of equity, comity, and federalism. Pennzoil Co. v. Texaco, Inc., 481 U.S. 1, 10-11  
22 (1987). It has been extended to a limited class of civil proceedings, specifically those which are

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23 <sup>3</sup> Moreover, if plaintiff were requesting a preliminary injunction it would be barred by the Anti-  
24 Injunction Act, 28 U.S.C. § 2283. See Smith v. Bayer, Corp., 564 U.S. 299, 306 (2011).

25 <sup>4</sup> Plaintiff relies on section 473 of the California Code of Civil Procedure, which provides that  
26 the court may set aside “any void judgment or order.” ECF No. 28 at 12. The California Code of  
27 Civil Procedure applies only to California state courts, it cannot give power to federal courts. An  
28 Act of the U.S. Congress is required to confer jurisdiction on the federal courts. Plaintiff also  
cites case law for the proposition that an order exceeding a court’s jurisdiction is void or voidable.  
ECF No. 28 at 13. None of the cited cases give federal courts power to consider the validity of  
state court orders, let alone set them aside.

1 “akin to criminal prosecutions,” or which “implicate a State’s interest in enforcing the orders and  
2 judgments of its courts.” Sprint Communications, Inc. v. Jacobs, 134 S. Ct. 584, 588 (2013)  
3 (citations omitted). The Supreme Court has laid out a three-part test for determining when to  
4 apply Younger to a civil proceeding. Abstention is required if the state proceedings: (1) are  
5 ongoing; (2) implicate “important state interests”; and (3) provide an adequate opportunity to  
6 raise federal questions. Middlesex County Ethics Committee v. Garden State Bar Ass’n, 457 U.S.  
7 423, 432 (1982). The Ninth Circuit has articulated an implied fourth requirement that (4) the  
8 federal court action would “enjoin the proceeding, or have the practical effect of doing so.”  
9 Gilbertson v. Albright, 381 F.3d 965, 978 (9th Cir. 2004) (en banc).

10 It is well established that the circumstances warranting Younger abstention include civil  
11 enforcement proceedings. New Orleans Public Service, Inc. v. Council of New Orleans, 491 U.S.  
12 350, 367-68 (1989). When a state or local government entity is in an enforcement posture,  
13 exercising its executive authority to regulate or remedy socially harmful conduct, the “important  
14 state interest requirement” is easily met. Potrero Hills Landfill, Inc. v. County of Solano, 657  
15 F.3d 876, 883-84 (9th Cir.2011). Accordingly, federal actions challenging the enforcement of  
16 public nuisance laws are barred by Younger. Huffman v. Pursue, Ltd., 420 U.S. 592 (1975); see  
17 also Woodfeathers, Inc. v. Washington County, Oregon, 180 F.3d 1017, 1021 (9th Cir. 1999)  
18 (“Civil actions brought by a government entity to enforce nuisance laws have been held to justify  
19 Younger abstention.”).

20 Here, all the requirements for Younger abstention are present. First, the Shasta County  
21 nuisance abatement proceeding is ongoing. Second, that proceeding by its nature implicates  
22 important state regulatory and enforcement interests in nuisance abatement. Third, the Shasta  
23 County Superior Court is a venue in which federal questions can be raised, and plaintiff has in  
24 fact presented his concerns there (albeit unsuccessfully). Finally, the action plaintiff seeks – an  
25 order vacating the superior court’s appointment of the receiver – would have the practical effect  
26 of enjoining the abatement process.

27 At hearing on the instant motion, plaintiff argued that Younger abstention does not apply  
28 because the nuisance abatement proceeding was brought in bad faith and involved fraud. The



1 adjudicated in that context. Accordingly, the request is denied without prejudice and will be  
2 considered in the context of the motions to dismiss and to strike, ECF Nos. 35, 36.

3 IV. CONCLUSION

4 For the reasons set forth above, it is HEREBY ORDERED that Defendant's request for an  
5 Order to Show Case re Sanctions is DENIED without prejudice.

6 Further, it is RECOMMENDED that plaintiff's "Motion to Set Aside State Court's Order  
7 Appointing Receiver as Void Order," ECF No. 28, be DENIED for the reasons set forth above.

8 These findings and recommendations are submitted to the United States District Judge  
9 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
10 after being served with these findings and recommendations, any party may file written  
11 objections with the court and serve a copy on all parties. Such a document should be captioned  
12 "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections  
13 within the specified time may waive the right to appeal the District Court's order. Turner v.  
14 Duncan, 158 F.3d 449, 455 (9th Cir.1998); Martinez v. Ylst, 951 F.2d 1153, 1156-57 (9th Cir.  
15 1991).

16 DATED: June 16, 2017

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18 ALLISON CLAIRE  
19 UNITED STATES MAGISTRATE JUDGE  
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