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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

NATALIA SIDIAKINA and SHERRYL
BAECKEL,

Plaintiffs,

v.

JAMES G. BERTOLI, JUDGE, ET AL.,

Defendants.

No. C 10-03157 JSW

**ORDER DENYING
APPLICATION FOR A
TEMPORARY RESTRAINING
ORDER**

Now before the Court is the application for a temporary restraining order and for an order to show cause re preliminary injunction filed by Plaintiff Natalila Sidiakina, appearing *pro se*. Plaintiff seeks to enjoin Defendants, James G. Bertoli, a judge in the Superior Court of Sonoma County, and all of the court's "officers, agents, servants, employees, levying officers, and attorneys, and those persons in active concert or participation or privities with any of them from issuing a Writ of Possession and/or taking Possession of and/or selling Plaintiff's property and current resident located at 746 Adobe Drive, Santa Rosa, CA 95404." (*See* Application for Temporary Restraining Order and Order to Show Cause re: Preliminary Injunction ("TRO") at 2.)

Plaintiff alleges that, as a result of proceedings in Superior Court, Defendants seek to "unlawfully take [the home] from Plaintiff and give it to Plaintiff's ex-husband and have scheduled the issuance of Writ of Possession" for February 14, 2011. (*Id.*) Plaintiff contends that she is a cognitively disabled person and was unable to understand the contents and

1 procedures of the state court proceeding. She further contends that, as a result of her
2 disabilities, including panic attacks and a phobia of Defendant Judge Bertoli, the proceedings
3 resulted in an unfair stipulation which she signed and which authorized the transfer of
4 possession of the home to her ex-husband.

5 Additional facts shall be addressed in the remainder of this order.

6 **ANALYSIS**

7 In order to obtain a temporary restraining order, as with a preliminary injunction,
8 Plaintiff “must establish that [she] is likely to succeed on the merits, that [she] is likely to suffer
9 irreparable harm in the absence of preliminary relief, that the balance of equities tips in [her]
10 favor, and that an injunction is in the public interest.” *Winter v. Natural Resources Defense*
11 *Council*, 129 S. Ct. 365, 374 (2008) (citations omitted). The *Winter* court also noted that
12 because injunctive relief is “an extraordinary remedy” it “may only be awarded upon a clear
13 showing that the plaintiff is entitled to such relief.” *Id.* at 375-76 (citing *Mazurek v. Armstrong*,
14 520 U.S. 968, 972 (1997) (*per curiam*)). Thus “[i]n each case, courts ‘must balance the
15 competing claims of injury and must consider the effect on each party of the granting or
16 withholding of the requested relief.’ *Id.* at 376 (citing *Amoco Production Co. v. Gambell*, 480
17 U.S. 531, 542 (1987)). ““In exercising their sound discretion, courts of equity should pay
18 particular regard for the public consequences in employing the extraordinary remedy of
19 injunction.”” *Id.* at 376-77 (citing *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312 (1982)).

20 In adjudicating whether Plaintiff has demonstrated that she is likely to succeed on the
21 merits of her complaint, Plaintiff must demonstrate that she has stated a viable cause of action.
22 Notwithstanding the invocation of Section 1983, Plaintiff fails to state a claim upon which relief
23 can be granted in this matter because (1) her claims are barred by the doctrine of absolute
24 judicial immunity; and (2) this Court lacks jurisdiction to review state court judgments.

25 Section 1983 provides, in pertinent part, that “in any action brought against a judicial
26 officer for an act or omission taken in such officer’s judicial capacity, injunctive relief *shall not*
27 *be granted unless* a declaratory decree was violated or declaratory relief was unavailable.” 42
28 U.S.C. § 1983 (emphasis added).

1 Judges listed as defendants in this matter are entitled to absolute judicial immunity. *See*
2 *Stump v. Sparkman*, 435 U.S. 349, 356-57 (1978) (“A judge will not be deprived of immunity
3 because the act he took was in error, was done maliciously, or was in excess of his authority.”);
4 *see also Mireless v. Waco*, 502 U.S. 9, 11 (1991); *Ashelman v. Pope*, 793 F.2d 1072, 1075 (9th
5 Cir. 1986). “Judicial immunity applies ‘however erroneous the act may have been, and
6 however injurious in its consequences it may have proved to the plaintiff.’” *Id.* (quoting
7 *Cleavinger v. Saxner*, 474 U.S. 193 (1985)). A judge lacks immunity only when he or she acts
8 “in the clear absence of all jurisdiction ... or performs an act that is not ‘judicial’ in nature.” *Id.*
9 (internal citation omitted).

10 An act is considered “judicial” when it is a function normally performed by a judge and
11 the parties dealt with the judge in his judicial capacity. *See Stump*, 435 U.S. at 362. To
12 determine if an individual acted in an official judicial capacity, a court must analyze whether:
13 “(1) the precise act is a normal judicial function; (2) the events occurred in the judge’s
14 chambers; (3) the controversy centered around a case then pending before the judge; and (4) the
15 events at issue arose directly and immediately out of a confrontation with the judge in his or her
16 official capacity.” *Id.* (citation omitted).

17 Having carefully reviewed the allegations in the complaint currently on file as well as
18 the description of events in Plaintiff’s present application for a TRO, the Court concludes that
19 each of the four factors set forth above demonstrates that Plaintiff’s allegations against the
20 Defendants arise from judicial acts that occurred during the course of the state court
21 proceedings.

22 In addition, Plaintiff’s claims also fail because this Court lacks jurisdiction to review
23 state court judgments. The *Rooker-Feldman* doctrine provides that district courts lack
24 jurisdiction to review the final determinations of a state court in judicial proceedings. *See, e.g.,*
25 *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 487-87 (1983); *Rooker v.*
26 *Fidelity Trust Co.*, 263 U.S. 413, 415 (1923); *Branson v. Nott*, 62 F.3d 287, 291 (9th Cir. 1995).
27 “The purpose of the doctrine is to protect state judgments from collateral federal attack.
28 Because district courts lack power to hear direct appeals from state court decisions, they must

1 decline jurisdiction whenever they are ‘in essence called upon to review the state court
2 decision.’” *Doe & Associates Law Offices v. Napolitano*, 252 F.3d 1026, 1030 (9th Cir. 2001)
3 (quoting *Feldman*, 460 U.S. at 482 n.16). Where “the district court must hold that the state
4 court was wrong in order to find in favor of the plaintiff, the issues presented are inextricably
5 intertwined.” *Id.* (citations omitted). Accordingly, Plaintiff’s claims against Defendants do not
6 state a viable claim on this basis as well.

7 Because Plaintiff has failed to state a claim against Defendants in this matter upon
8 which relief can be granted, she cannot demonstrate that she is likely to succeed on the merits.
9 *See Winter*, 129 S. Ct. at 374.¹

10 **CONCLUSION**

11 For the foregoing reasons, Plaintiffs’ application for a temporary restraining order and
12 order to show cause re preliminary injunction is DENIED.

13 **IT IS SO ORDERED.**

14
15 Dated: February 10, 2011



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE

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26 ¹ Because the Court has granted Plaintiffs their request to file a second amended
27 complaint that may be able to state a claim upon which relief can be granted, the Court
28 cannot dismiss the case in its entirety. However, the Court again exhorts Plaintiffs, to the
extent they still intend to file an amended complaint, that claims against judicial officers
acting within their normal judicial function and official capacity are subject to immunity and
shall be dismissed. A second amended complaint shall be filed no later than February 25,
2011. Failure to file a complaint stating a claim upon which relief can be granted by that
date shall result in dismissal of this action.

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA
4

5 NATALIA SIDIAKINA et al,
6 Plaintiff,

Case Number: CV10-03157 JSW

CERTIFICATE OF SERVICE

7 v.

8 JAMES G. BERTOLI et al,
9 Defendant.
10 _____/

11 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S.
12 District Court, Northern District of California.

13 That on February 10, 2011, I SERVED a true and correct copy(ies) of the attached, by
14 placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter
15 listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an
16 inter-office delivery receptacle located in the Clerk's office.

17 Natalia A. Sidiakina
18 746 Adobe Drive
19 Santa Rosa, CA 95404

20 Sherryl Baeckel
21 10520 Village Road
22 Moreno Valley, CA 92557

23 Dated: February 10, 2011



24 Richard W. Wieking, Clerk
25 By: Jennifer Ottolini, Deputy Clerk
26
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