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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BERNARDO ALCARAZ,
Plaintiff,
v.
ALTEZZA CONDO LLC,
Defendant.

Case No. [18-cv-02801-SI](#)

**ORDER DENYING APPLICATION
FOR TEMPORARY RESTRAINING
ORDER**

Re: Dkt. No. 158

On July 12, 2023, plaintiff Bernardo Alcaraz, acting *pro se*, filed an ex parte application for a temporary restraining order to restrain defendant Altezza Condo LLC from moving forward with eviction proceedings against him. Dkt. No. 158. The Court held a hearing on the matter on July 14, 2023. Present at the hearing were Mr. Alcaraz; counsel for defendant; and one of Mr. Alcaraz's former pro bono attorneys, who is no longer with the firm that represented him. For the reasons stated at the hearing, the Court DENIES Mr. Alcaraz's application for a TRO.

BACKGROUND

Mr. Alcaraz states that defendant never followed through with selling him the subject property (in which he lives), which was a term of the parties' settlement agreement in January 2021. Mr. Alcaraz states that under the settlement agreement escrow was slated to close on March 8, 2021, but that he did not receive the closing documents from the title company until March 11, 2021. On March 12, 2021, defense counsel emailed Mr. Alcaraz to state that Mr. Alcaraz was in breach of the settlement agreement, that defendant would not sell the unit to him, and that he needed to vacate the premises immediately. Defendant disputes Mr. Alcaraz's version of events, though neither party disputes that Mr. Alcaraz did not deposit the funds into escrow at any point in March 2021 or thereafter.

In his TRO papers, Mr. Alcaraz states that he intends to file a noticed motion to enforce the settlement agreement. Mr. Alcaraz did not seek the assistance of this Court or of his former pro

1 bono counsel in March 2021 when the settlement apparently fell apart.¹ He did not contact the Court
2 regarding the settlement or the eviction threat until this week.

3
4 **DISCUSSION**


5 As explained at the hearing, the Court is without jurisdiction to grant Mr. Alcaraz the relief
6 he requests. On January 28, 2021, the parties filed a stipulation of voluntary dismissal with prejudice
7 of plaintiff’s claims against defendant, pursuant to Federal Rule of Civil Procedure 41(a). Dkt. No.
8 153. The Court signed off on the stipulation the following day. Dkt. No. 154. The stipulation does
9 not retain the Court’s jurisdiction to enforce the terms of the settlement agreement.

10 The Supreme Court has held that in situations such as these, the federal court is without
11 jurisdiction: “enforcement of the settlement agreement is for state courts, unless there is some
12 independent basis for federal jurisdiction.” *See Kokkonen v. Guardian Life Ins. Co. of Am.*, 511
13 U.S. 375, 382 (1994). The current suit “involves a claim for breach of a contract, part of the
14 consideration for which was dismissal of an earlier federal suit. No federal statute makes that
15 connection (if it constitutionally could) the basis for federal-court jurisdiction over the contract
16 dispute.” *See id.* at 381. Absent the Court’s retention of jurisdiction over the settlement contract or
17 incorporation of the settlement contract into the dismissal order, which did not occur here, the Court
18 is without jurisdiction to resolve the present dispute. *See id.* at 381-82.

19 Mr. Alcaraz must seek relief by filing a new lawsuit in state court, or in federal court if there
20 is an independent basis for jurisdiction, such as diversity jurisdiction.

21 **IT IS SO ORDERED.**

22 Dated: July 14, 2023

23 
24 _____
25 SUSAN ILLSTON
26 United States District Judge

27 _____
28 ¹ Pro bono counsel stated that their representation terminated in January 2021 once the parties had settled.