

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

LUIS DEL RIO, Individually and on  
Behalf of All Others Similarly Situated,  
  
Plaintiffs,  
  
vs.  
CREDITANSWERS, LLC,  
  
Defendant.

CASE NO. 10cv346-WQH-BLM  
ORDER

HAYES, Judge:

The matter before the Court is Plaintiff’s Ex Parte Application for an Order Enjoining Defendant from Further Proceeding in 416th District Court of Collin County, Texas, Case Number 416-00625-2010, Alternatively, Motion for Temporary Stay (“Application for Injunction”). (Doc. # 4).

**I. Background**

On February 11, 2010, Plaintiff Luis Del Rio (“Del Rio”) initiated this action by filing a Complaint in this Court. (Doc. # 1). The Complaint alleges that Del Rio and Defendant CreditAnswers, LLC (“CreditAnswers”), a “for-profit debt settlement company,” entered into a “contract of adhesion” on April 20, 2008. (Doc. # 1 ¶¶ 21, 42). The Complaint asserts seven causes of action: (1) violation of California Business and Professions Code § 17200; (2) violation of the Consumer Legal Remedies Act, Cal. Civ. Code § 1770(a)(7), 1770(a)(19); (3) violation of the Credit Repair Organizations Act, 15 U.S.C. § 1678; (4) intentional interference with contractual relations; (5) tort in essence; (6) negligence per se; and (7) declaratory relief.

1 The Complaint includes class action allegations related to three purported California classes.

2 On February 15, 2010, CreditAnswers filed a complaint against Del Rio in Texas state  
3 court, seeking declaratory relief related to an alleged June 19, 2009 contract between Del Rio  
4 and CreditAnswers. (Doc. # 4, Ex. A ¶ 8).

5 On February 17, 2010, Del Rio was personally served in the Texas case. (*Id.*)

6 On March 9, 2010, Del Rio filed a proof of service in this case, indicating that  
7 CreditAnswers was served in this case on February 19, 2010. (Doc. # 3).

8 On March 9, 2010, Del Rio filed the Application for Injunction. (Doc. # 4). Del Rio  
9 “requests this Court enjoin [CreditAnswers] from any further participation, prosecution or  
10 proceeding in the Texas Case pursuant to this Court’s authority under the All-Writs Act and  
11 the Anti-Injunction Act, or alternatively, for a temporary stay of the Texas Case so that the  
12 Court may hear this cause on a regularly noticed motion....” (Doc. # 4 at 9). Del Rio contends  
13 that this relief is appropriate because, by filing the Texas case, CreditAnswers “is intentionally  
14 and wrongfully attempting to usurp this Court’s jurisdiction.” (Doc. # 4 at 5).

15 On March 11, 2010, CreditAnswers filed an opposition to the Application for  
16 Injunction. (Doc. # 7). CreditAnswers contends that “no emergency exists to justify ex parte  
17 relief” and “the Anti-Injunction Act prohibits the relief [Del Rio] seeks.” (Doc. # 7 at 2, 5).

## 18 **II. Discussion**

19 The All Writs Act allows federal courts to “issue all writs necessary or appropriate in  
20 aid of their respective jurisdictions and agreeable to the usages and principles of law.” 28  
21 U.S.C. § 1651. The All Writs Act is limited by the Anti-Injunction Act, which prevents a  
22 federal court from enjoining the “proceedings in a State court except as expressly authorized  
23 by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its  
24 judgments.” 28 U.S.C. § 2283. “The [Anti-Injunction] Act creates a presumption in favor of  
25 permitting parallel actions in state and federal court.” *Bennett v. Medtronic, Inc.*, 285 F.3d  
26 801, 806 (9th Cir. 2002). “Rooted firmly in constitutional principles, the [Anti-Injunction] Act  
27 is designed to prevent friction between federal and state courts by barring federal intervention  
28 in all but the narrowest of circumstances. Accordingly, the limited exceptions to the

1 Anti-Injunction Act will not be enlarged by loose statutory construction. Rather, any doubts  
2 as to the propriety of a federal injunction against state court proceedings will be resolved in  
3 favor of permitting the state courts to proceed, which means that we will uphold an injunction  
4 only on a strong and unequivocal showing that such relief is necessary.” *Sandpiper Vill.  
5 Condo. Ass’n, Inc. v. Louisiana-Pacific Corp.*, 428 F.3d 831, 842 (9th Cir. 2005) (quotations  
6 omitted).

7 The Application for Injunction is based upon the “necessary in aid of ... jurisdiction”  
8 exception to the Anti-Injunction Act. 28 U.S.C. § 2283. This exception authorizes injunctive  
9 relief “to prevent a state court from so interfering with a federal court’s consideration or  
10 disposition of a case as to seriously impair the federal court’s flexibility and authority to decide  
11 that case.” *Atlantic Coast Line R.R. Co. v. Bhd. of Locomotive Eng’rs*, 398 U.S. 281, 295  
12 (1970). “This exception arose from the settled rule that if an action is *in rem*, the court first  
13 obtaining jurisdiction over the *res* may proceed without interference from actions in other  
14 courts involving the same *res*. Although the ... exception has since been expanded to include  
15 some *in personam* actions, it remains that an injunction is justified only where a parallel state  
16 action threatens to render the exercise of the federal court’s jurisdiction nugatory.” *Sandpiper*,  
17 428 F.3d at 843-44 (quotations omitted); *see also Bennett*, 285 F.3d at 807 (“[I]njunctive actions are  
18 permitted where an *in personam* action bears substantial similarity to an *in rem* action.”)  
19 (citing *U.S. v. Alpine Land & Reservoir*, 174 F.3d 1007, 1013-14 (9th Cir. 1999) (water rights  
20 sufficiently similar to *in rem* actions)). “[T]he general rule is still that where a suit is strictly  
21 *in personam* there is no objection to a subsequent action in another jurisdiction, either before  
22 or after judgment, although the same issues are to be tried and determined, because the  
23 subsequent action neither ousts the jurisdiction of the court in which the first suit was brought,  
24 nor does it delay or obstruct the exercise of that jurisdiction, nor lead to a conflict of authority  
25 where each court acts in accordance with the law.” *Sandpiper*, 428 F.3d at 844 (quotation  
26 omitted).

27 In *Hanlon v. Chrysler Corp.*, 150 F.3d 1011 (9th Cir. 1998), the Ninth Circuit upheld  
28 an injunction barring a federal class member from pursuing a state class action involving


1 claims that were similar to those raised in a nationwide class action that was nearing resolution.  
2 *See id.* at 1025. The *Hanlon* “decision clearly recognized that a competing state class action  
3 covering a portion of the federal class posed a significant danger to the delicate and transitory  
4 process of approving a settlement agreement, and thereby threatened the district court’s ability  
5 to resolve the litigation.” *Sandpiper*, 428 F.3d at 845. Similarly, in *In re Diet Drugs*, 282 F.3d  
6 220 (3d Cir. 2002), the court affirmed an order enjoining a parallel state action relying upon  
7 the “necessary in aid of ... jurisdiction” exception. In that case, as in *Hanlon*, the federal  
8 nationwide class action was nearing settlement at the time the state action was filed. *See id.*  
9 at 237. “In light of the sensitive stage of the federal litigation, the Third Circuit reasoned that  
10 the state court action ‘might interfere with the District Court’s oversight of the settlement at  
11 that time, given the careful balancing it embodied’ and, therefore, posed ‘a serious threat to the  
12 District Court’s ability to manage the final stages of this complex litigation.’” *Sandpiper*, 428  
13 F.3d at 845 n.22 (quoting *In re Diet Drugs*, 282 F.3d at 236-37).

14 Del Rio has not shown that this action is in a “sensitive stage,” *id.*, or that this *in*  
15 *personam* action “bears substantial similarity to an *in rem* action,” *Bennett*, 285 F.3d at 807.  
16 The Complaint was only recently served, and CreditAnswers has yet to file a response. Del  
17 Rio has failed to make a “strong and unequivocal showing” that this situation falls outside “the  
18 general rule ... that where a suit is strictly *in personam* there is no objection to a subsequent  
19 action in another jurisdiction.” *Sandpiper*, 428 F.3d at 842, 844 (quotation omitted). Based  
20 upon the current record, the Court concludes that injunctive relief is not warranted.

### 21 **III. Conclusion**

22 Plaintiff’s Ex Parte Application for an Order Enjoining Defendant from Further  
23 Proceeding in 416th District Court of Collin County, Texas, Case Number 416-00625-2010,  
24 Alternatively, Motion for Temporary Stay is **DENIED**. (Doc. # 4).

25 DATED: April 1, 2010

26   
27 **WILLIAM Q. HAYES**  
28 United States District Judge