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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ROGER A. WARREN,

 Plaintiff,

v.

FEDERAL HOME LOAN MORTGAGE
CORPORATION, its assignees and/or
successors, QUALITY LOAN SERVICE
CORPORATION, BANK OF AMERICA
HOME LOANS, BANK OF AMERICA,
N.A., COUNTRYWIDE HOME
LOANS, FIRST LINE RESIDENTIAL,
INC., AND DOES 1-1000,

 Defendants.

Civil No. 13cv0617 JAH(MDD)

**ORDER DENYING PLAINTIFF’S
APPLICATION FOR TEMPORARY
RESTRAINING ORDER**
[DOCS. # 9, 10]

Plaintiff, appearing *pro se*, has filed a document entitled “Notice of Motion and Motion in Opposition to Fraudulent Filing of Unlawful Detainer ...” [doc. # 10] along with an application for an order shortening time [doc. # 9], collectively which this Court construes as an application for a temporary restraining order. Specifically, plaintiff seeks this Court’s order enjoining further proceedings in an unlawful detainer action pending against plaintiff in California Superior Court. *See* Doc. # 9 at 1-2; Doc. # 10 at 22.

Temporary restraining orders are governed by Rule 65 of the Federal Rules of Civil Procedure and are subject to the same standard for issuing a preliminary injunction. *See Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839, n. 7 (9th Cir. 2001); *Lockheed Missile & Space Co., Inc. v. Hughes Aircraft Co.*, 887 F.Supp. 1320, 1323

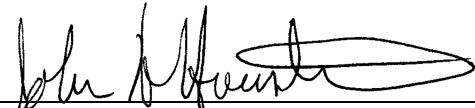
1 (N.D.Cal. 1995). A party seeking a preliminary injunction must show “he is likely to
2 succeed on the merits, that he is likely to suffer irreparable harm in the absence of
3 preliminary relief, that the balance of equities tips in his favor and that an injunction is
4 in the public interest.” Winter v. Natural Resources Defense Council, Inc., 129 S.Ct. 365,
5 374 (2008). The Ninth Circuit Court of Appeal has determined that its “serious
6 questions” sliding scale test, which permits one element to offset a weaker one, is still
7 viable after the four-part element test provided in Winter. See Alliance for the Wild
8 Rockies v. Cottrell, 632 F.3d 1127, 1134 -35 (9th Cir. 2011). Therefore, a preliminary
9 injunction may issue if the plaintiff demonstrates serious questions going to the merits and
10 that the balance of hardships tip sharply in his favor, “so long as the plaintiff also shows
11 that there is a likelihood of irreparable injury and that the injunction is in the public
12 interest.” Id. at 1135. However, “a preliminary injunction may be denied on the sole
13 ground that the plaintiff failed to raise even “serious questions” going to the merits.”
14 Vanguard Outdoor, LLC v. City of Los Angeles, 648 F.3d 737, 739-40 (9th Cir. 2011).

15 This Court finds it is prevented from intervening in a state court unlawful detainer
16 action by the Anti-Injunction Act. The Act “is an absolute prohibition against enjoining
17 state court proceedings, unless the injunction falls within one of [the] three specifically
18 defined exceptions.” Atlantic Coast Line Railroad Company v. Brotherhood of
19 Locomotive Engineers, 398 U.S. 281, 26 (1970). The three exceptions are narrowly
20 construed, and “doubts as to the propriety of a federal injunction against a state court
21 proceeding should be resolved in favor of permitting the state action to proceed.” Lou v.
22 Belzberg, 834 F.2d 730, 739 (9th Cir. 1987). A number of district court have found that
23 a stay of unlawful detainer proceedings does not fall into one of the exceptions listed in
24 the Act. See, e.g., Diaz v. National City Bank, 2012 WL 2129916 at *2 (S.D. Cal. June
25 12, 2012; Carrasco v. HSBC Bank USA, N.A., 2012 WL 646251 at *3-4 (N.D. Cal. Feb.
26 28, 2012; Sato v. Wachovia Mortgage, FSB, 2012 WL 368423 at *2 (N.D. Cal. Feb. 3,
27 2012). Plaintiff claims, among other things, that the state court action was fraudulently
28 filed. See Doc. 10 at 1-2. Plaintiff may pursue that argument in state court,

1 but the Anti-Injunction Act prevents this Court's intervention. Accordingly, plaintiff's
2 application for a temporary restraining order [docs. # 9, 10] is **DENIED**.

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Dated: April 5, 2013



JOHN A. HOUSTON
United States District Judge