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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 MYZSA WILLIS,

12 Plaintiff,

13 v.

14 MICHAEL M. RODDY, Clerk of the San  
15 Diego Superior Court, et al.

16 Defendants.

Case No.: 16CV1008 BEN (JLB)

**ORDER DENYING EMERGENCY  
MOTION TO ENJOIN STATE  
COURT PROBATE PROCEEDINGS**

[Docket No. 3]

17 On May 2, 2016, Plaintiff Myzsa Willis filed this action in federal court to stop a  
18 California probate court from proceeding with a matter before it. (Docket No. 1  
19 (“Complaint”).) Plaintiff alleges that the San Diego Superior Court has allowed a case to  
20 proceed (“probate proceedings”), including issuing orders allegedly adverse to Plaintiff’s  
21 right to due process while lacking jurisdiction. (Compl. ¶¶ 1-2.) The probate  
22 proceedings were initiated by her allegedly incompetent grandmother to remove her as  
23 trustee of a family trust. Plaintiff is convinced that the probate court will decide the  
24 matter without a trial. Plaintiff now comes to federal court seeking an Emergency  
25 Motion to Enjoin State Court Probate Proceedings seeking to stop the probate  
26 proceedings in advance of a May 9, 2016 hearing on the issue of her permanent removal  
27 as trustee. (Docket No. 3.)

1 **BACKGROUND**

2 Plaintiff alleges that her grandmother, Teresa McClain, was not competent to  
3 commence the probate proceedings to remove Plaintiff as trustee of the William R.  
4 McClain and Teresa M. McClain Revocable Trust (“the Trust”). The Court will not  
5 recite all of the details of the probate proceedings or related actions in state court,  
6 including the conservatorship action, but notes the following for purposes of considering  
7 the request for a preliminary injunction.<sup>1</sup>

8 Plaintiff asserts that by the Fall of 2014, McClain was unable to care for herself  
9 and could not manage her affairs. Plaintiff relies on declarations from friends and family  
10 that observed her decline as well as physician diagnoses of dementia. As examples of her  
11 decline, Plaintiff notes records indicating that McClain inaccurately believed one of her  
12 daughters was dead and did not recognize her sister at times. Approximately a week  
13 before the probate proceeding were commenced, purportedly by McClain, she was  
14 relocated to Indiana by a neighbor. The record reflects that there is a disagreement about  
15 whether McClain was taken without her consent or knowingly moved to live with her  
16 sister to get away from family in San Diego. There are allegations she attempted to  
17 escape her residence in Indiana. This prompted a medical evaluation that indicated she  
18 had severe dementia due to Alzheimer’s. It appears from the documents filed that she has  
19 been living in nursing homes most of the time she had been in Indiana and there are  
20 ongoing proceedings in state court concerning appointment of a conservator.

21 Plaintiff asserts that when Attorney James Stoffel filed the probate proceedings for  
22 McClain on August 18, 2015, she was not competent to make that decision or even to  
23 employ his services. Plaintiff alleges that the same is true of every filing submitted to the  
24 court since. This is the basis for Plaintiff’s claim that the probate court lacks jurisdiction.  
25 At this point, Plaintiff has been removed as trustee in the probate proceedings and a

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27 <sup>1</sup> Plaintiff filed more than 700 pages of exhibits in support of her Motion.

1 temporary private trustee is now appointed. It appears the removal was not permanent  
2 and that issue remains before the probate court. This action was prompted when the  
3 probate court issued a minute entry that Plaintiff interpreted to mean the court would be  
4 ruling on the permanent removal without a trial. That hearing is set for May 9, 2016.  
5 Plaintiff frames her claims as one brought under 42 U.S.C. § 1983 and asks this Court to  
6 enjoin those proceedings. Because it is not a plausible § 1983 claim, this Court is barred  
7 from enjoining the state probate court, and the Court would decline to interfere with the  
8 ordinary matters of a state probate proceedings in any event.

## 9 DISCUSSION

### 10 I. Anti-Injunction Act

11 “The Anti-Injunction Act bars federal courts from enjoining ongoing state court  
12 proceedings except in specific and narrow circumstances.” *Prudential Real Estate*  
13 *Affiliates, Inc. v. PPR Realty, Inc.*, 204 F.3d 867, 878-79 (9th Cir. 2000) (citing *Empire*  
14 *Blue Cross & Blue Shield v. Janet Freeson’s a Place for Us, Inc.*, 985 F.2d 459, 461 (9th  
15 Cir. 1993)). “Proceedings in state courts should normally be allowed to continue  
16 unimpaired by intervention of the lower federal courts, with relief from error, if any,  
17 through the state appellate courts and ultimately the [Supreme Court].” *Atl. Coast Line*  
18 *R.R. Co. v. Bhd. of Locomotive Eng’rs*, 398 U.S. 281, 287 (1970). However, the statute  
19 provides for three exceptions: (1) “as expressly authorized by Act of Congress, or [(2)]  
20 where necessary in aid of its jurisdiction, or [(3)] to protect or effectuate its judgments.”  
21 28 U.S.C. § 2283 (emphasis added).

22 “[Section] 1983 is an Act of Congress that falls within the expressly authorized  
23 exception.” *Mitchum v. Foster*, 407 U.S. 225, 243 (1972). However, the Court is  
24 obligated to “construe the exceptions to the Anti-Injunction Act narrowly and resolve  
25 doubts in favor of letting the state action proceed.” See *Kan. Pub. Emps. Ret. Sys. v.*  
26 *Reimer & Koger Assocs., Inc.*, 77 F.3d 1063, 1068 (8th Cir. 1996). Here, Plaintiff has  
27 failed to state a plausible § 1983 claim.

1           **A. Plaintiff Fails to State a § 1983 Claim**

2           Plaintiff has not stated a § 1983 claim because she has not alleged a plausible  
3 constitutional violation. *Johnson v. Knowles*, 113 F.3d 1114, 1117 (9th Cir. 1997) (“To  
4 state a claim for relief under section 1983, the Plaintiffs must plead two essential  
5 elements: (1) that the Defendants acted under color of state law; and (2) that the  
6 Defendants caused them to be deprived of a right secured by the Constitution and laws of  
7 the United States.”)

8           “A procedural<sup>2</sup> due process claim has two elements: deprivation of a  
9 constitutionally protected liberty or property interest and denial of adequate procedural  
10 protection.” *Krainski*, 606 F.3d at 970. Plaintiff has alleged neither.

11           Plaintiff alleges she has a property interest in being the trustee of the Trust.  
12 Plaintiff cites no authority for this proposition. Losing the position of trustee does not  
13 carry with it the sort of pursuit-of-a-livelihood concerns that arise in continued  
14 employment or maintaining a license. See *Bell v. Burson*, 402 U.S. 535, 539 (1971). It  
15 does not appear that Plaintiff was receiving any compensation as trustee. The additional  
16 expense she is incurring in rent in response to the demands of the temporary trustee is not  
17 a consequence of Plaintiff being removed as trustee.<sup>3</sup> It may be a consequence of the  
18 temporary trustee attempting to produce income for the Trust from Trust property, as  
19 ordered by the probate court. The Court does not doubt that Plaintiff may have an

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21 <sup>2</sup> Plaintiff does not specify that she is asserting a procedural due process claim as opposed  
22 to substantive due process. However, given the constitutional claim was only raised in  
23 response to being denied a trial on the issue of removal, the Court has deduced Plaintiff is  
24 attempting to assert a procedural due process claim. Additionally, Plaintiff does not  
25 allege government interference with the type of fundamental right or liberty interest that  
26 might implicate substantive due process. *Krainski v. Regents of Nev. Sys. of Higher*

27 <sup>3</sup> The Court need not reach the merits of Plaintiff’s claims that the residence at issue  
belongs to her mother’s estate or that she was living there indefinitely without paying rent  
pursuant to a family agreement.

1 interest in the assets of the Trust and in seeing it managed well as a beneficiary of it, but  
2 that does not create a property interest in holding the position of trustee herself.

3 Assuming Plaintiff had alleged a cognizable property interest, she has also failed to  
4 allege she has not been provided adequate procedural protections. Plaintiff has deduced  
5 that the state court is not going to allow Plaintiff a trial on the issue of removal. Putting  
6 aside whether Plaintiff is entitled to a trial on this issue, it is not clear that is what is  
7 happening. This action, and this Motion in particular, was prompted by a probate court  
8 minute order indicating the court was going to hear argument on whether to permanently  
9 remove Plaintiff as trustee based on a conflict posed by her litigation against the Trust in  
10 a related action. Plaintiff also alleges that she filed motions challenging the court's  
11 jurisdiction following the minute entry. One was denied and the other set for hearing on  
12 May 9, 2016. Plaintiff alleges that this means the court is going to rule against her  
13 without a trial, witnesses, or evidence during a case management conference. Based on  
14 this record, this Court cannot infer that the denial of a trial or other adequate procedural  
15 protections is imminent. Additionally, Plaintiff fails to allege why a state court appeal  
16 would not provide an adequate procedural protection.

17 Plaintiff has labeled this a § 1983 action with constitutional implications to avoid  
18 the Anti-Injunction Act's prohibition on enjoining state court proceedings. That  
19 "prohibition against such injunctions in part rests on the fundamental constitutional  
20 independence of the States and their courts." *Atl. Coast Line R.R. Co.*, 398 U.S. at 287.  
21 If a plaintiff could circumvent the independence of the state courts and sidestep all  
22 notions of federalism by applying a § 1983 label to every unfavorable act by a state court,  
23 it would turn federal courts into courts of appeal for every state court matter, or, as would  
24 be the case here, prevent the state courts from addressing the matters before it in the first  
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1 instance.<sup>4</sup> Because no § 1983 claim is stated and no other exceptions apply, the Anti-  
2 Injunction Act prohibits enjoining the probate proceedings. In the alternative, assuming  
3 the Anti-Injunction Act exception is satisfied by simply labeling a state court appeal as a  
4 § 1983 action, the Court would still decline to intervene in the probate proceedings.  
5 *Rizzo v. Goode*, 423 U.S. 362, 379 (1976) (finding “the underlying notions of federalism  
6 which Congress has recognized in dealing with the relationships between federal and  
7 state courts still have weight” even when one of the exceptions applies)

## 8 **II. Preliminary Injunction**

9 If Plaintiff’s claim were not barred by the Anti-Injunction Act and notions of  
10 federalism, the Motion would still be denied because Plaintiff has failed to show a  
11 likelihood of success on the merits. “A plaintiff seeking a preliminary injunction must  
12 establish that he is likely to succeed on the merits, that he is likely to suffer irreparable  
13 harm in the absence of preliminary relief, that the balance of equities tips in his favor, and  
14 that an injunction is in the public interest.” *Winter v. Natural Res. Def. Council, Inc.*, 555  
15 U.S. 7, 20 (2008). In the Ninth Circuit, “serious questions going to the merits and a  
16 hardship balance that tips sharply toward the plaintiff can support issuance of an  
17 injunction, assuming the other two elements of the *Winter* test are also met.” *Alliance for*  
18 *the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1132 (9th Cir. 2011) (internal quotation  
19 marks omitted). As discussed above, Plaintiff has failed to state a plausible claim under §  
20 1983. She has no likelihood of success on the merits.

21 Additionally, Plaintiff has failed to establish a likelihood of irreparable harm.  
22 “The basis of injunctive relief in the federal courts is irreparable harm and inadequacy of  
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24 <sup>4</sup> The Court is not finding that there will never be an instance of a state court action  
25 giving rise to a constitutional claim that could warrant federal court intervention. Rather,  
26 the Court finds that when no § 1983 constitutional claim is stated and no other exception  
27 applies, the Anti-Injunction Act prohibits federal courts from enjoining state court  
proceedings.

1 legal remedies.” *L.A. Mem’l Coliseum Comm’n v. Nat’l Football League*, 634 F.2d 1197,  
2 1202 (9th Cir. 1980). Plaintiff claims she faces irreparable injury in being required to  
3 pay rent to the Trust and the possibility that real estate held by the Trust may be sold.

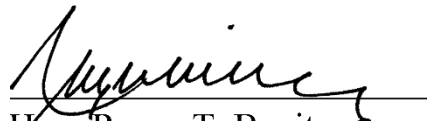
4 The “loss of an interest in real property constitutes irreparable injury.” *Park Vill.*  
5 *Apartment Tenants Ass’n v. Mortimer Howard Trust*, 636 F.3d 1150, 1159 (9th Cir.  
6 2011). However, as noted above, it is not Plaintiff’s permanent removal as trustee that  
7 triggers her obligation to pay rent or that necessitates the sale of real estate held by the  
8 Trust. Her obligation to pay rent is dependent on a different state court proceeding  
9 concerning ownership of that particular property. And as to the sale of real estate, it is  
10 simply a matter of disagreement between a beneficiary of the Trust, Plaintiff, and the  
11 temporary trustee, as how best to maintain or build the Trust, given McClain’s need for  
12 those funds for her care. Plaintiff has failed to establish irreparable harm resulting from  
13 her removal as trustee.

14 The Court need not address the last two factors because Plaintiff has failed to  
15 establish the first two.

### 16 CONCLUSION

17 The Emergency Motion to Enjoin State Court Probate Proceedings is **DENIED**.  
18 **IT IS SO ORDERED.**

19 Dated: May 5, 2016

20   
21 Hon. Roger T. Benitez  
22 United States District Judge  
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