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UNITED STATES DISTRICT COURT

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SOUTHERN DISTRICT OF CALIFORNIA

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SAWSAN WARDA, and MAJID M.
TOMA,

CASE NO. 17cv648-WQH-JMA

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Plaintiffs,

ORDER

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v.

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SANTEE APARTMENTS LP,

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Defendant.

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HAYES, Judge:

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The matter before the Court is the Ex Parte Application for Temporary Restraining Order and Motion for Preliminary Injunction (ECF No. 3) filed by Plaintiffs Majid M. Toma and Sawsan Warda (“Plaintiffs”) and the Motion to Dissolve the Temporary Restraining Order and Opposition to Plaintiffs’ Motion for Preliminary Injunction (ECF No. 8) filed by Defendant Santee Apartments LP (“Defendant”).

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I. Introduction

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On March 30, 2017, Plaintiffs initiated this action by filing a Complaint (ECF No. 1), a motion for leave to proceed in forma pauperis (ECF No. 2), and the Ex Parte Application for Temporary Restraining Order and Motion for Preliminary Injunction (ECF No. 3). On March 30, 2017, the Court issued an order granting Plaintiffs’ motion for leave to proceed in forma pauperis. (ECF No. 4).

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In their Ex Parte Application for Temporary Restraining Order and Motion for Preliminary Injunction, Plaintiffs contend that if the Court did not grant injunctive relief

1 preventing Defendant from enforcing a lockout “against Plaintiffs based on a default
2 judgment in an Unlawful Detainer action[,]” Plaintiffs would suffer irreparable harm
3 by “be[ing] denied the opportunity . . . to reside in the community and environment of
4 the[ir] choice.” (ECF No. 3 at 1-2, 7). Plaintiffs contend that temporary injunctive
5 relief “is necessary to preserve the status quo so that this Court can make the
6 determination as to whether the intended denial of housing was motivated by
7 discrimination based on disability in violation of the Fair Housing Amendments Act of
8 1988, 42 U.S.C. §3601 *et seq.*, Section 504 of the Rehabilitation Act, and related state
9 laws.” *Id.* at 7. Plaintiffs contend that there is a substantial likelihood they will prevail
10 on the merits because Defendant has refused to provide Plaintiffs with a reasonable
11 accommodation and has attempted to remove Plaintiffs from their rental unit “prior to
12 engaging in the interactive process as part of the reasonable accommodation request.”
13 *Id.* Plaintiffs contend that “[t]he threatened injury to Plaintiffs far outweighs any
14 potential harm to Defendant” and issuing a temporary restraining order will not harm
15 the public interest. *Id.* at 7-8.

16 On March 30, 2017, the Court issued an order granting Plaintiffs’ request for a
17 temporary restraining order. (ECF No. 6). The Court found that Plaintiffs had
18 “identified immediate and irreparable injury which may result before Defendant can be
19 heard in opposition.” *Id.* at 2. The Court found that Plaintiffs had “made an adequate
20 attempt to provide Defendant with notice of this action and the Motion for Temporary
21 Restraining Order prior to any irreparable injury[,]” and found “that Plaintiffs have met
22 the requirements of Rule 65(b).” *Id.* The Court ordered that Defendant “is hereby
23 ENJOINED from taking any actions to prevent Plaintiffs’ continuous occupancy of
24 their rental unit, pending further order of this Court.” *Id.* at 2-3.

25 On April 4, 2017, Defendant filed Proof of Service (ECF No. 7) and the Motion
26 to Dissolve the Temporary Restraining Order and Opposition to Plaintiffs’ Motion for
27 Preliminary Injunction. (ECF No. 8). On April 5, 2017, Plaintiff filed a reply to
28 Defendant’s Motion to Dissolve the Temporary Restraining Order and opposition.

1 (ECF No. 11). On April 6, 2017, the Court held a hearing regarding the temporary
2 restraining order, where counsel for both parties entered appearances and presented
3 argument to the Court. (ECF No. 12).

4 **II. Motion to Dissolve the Temporary Restraining Order and Opposition to**
5 **Plaintiffs’ Motion for Preliminary Injunction (ECF No. 8)**

6 **A. Contentions of the Parties**

7 Defendant contends that this Court is prohibited from entering temporary
8 injunctive relief by the Anti-Injunction Act. Defendant contends that the Anti-
9 Injunction Act “prohibits a federal district court from issuing a temporary restraining
10 order staying unlawful detainer proceedings in state court.” (ECF No. 8 at 11).
11 Defendant contends that the injunction requested by Plaintiffs does not fall into any of
12 the three exceptions to the Anti-Injunction Act. *Id.* at 11-14.

13 Plaintiffs contend that the “necessary in aid of its jurisdiction” exception to the
14 Anti-Injunction Act applies to this case, so that this Court may issue the injunctive relief
15 requested by Plaintiffs. (ECF No. 11 at 3). Plaintiffs contend that another district court
16 has found that courts “can enjoin a state court eviction proceeding where certain
17 important housing rights are in jeopardy of being lost, such as housing subsidized under
18 the low-income Section 8 federal housing assistance program.” *Id.* (citing *Sierra v. City*
19 *of New York*, 528 F. Supp.2d 465, 468 (S.D.N.Y. 2008)). Plaintiffs contend they “are
20 recipients of subsidized housing under the federally funded Low Income Housing Tax
21 Credit Program (“LIHTC”)[,]” and “the potential loss of housing subsidized under the
22 LIHTC program is equally as devastating as losing Section 8 housing.” *Id.* at 4.
23 Plaintiffs contend that “federal courts do have the authority to enjoin a landlord from
24 denying housing where the ‘necessary in aid of its jurisdiction’ exception extends to
25 cases where some federal injunctive relief may be necessary to prevent a state court
26 from so interfering with a federal court’s consideration or disposition of a case as to
27 seriously impair the federal court’s flexibility and authority to decide the case.” *Id.* at
28 3 (citation and quotation marks omitted).

1 **B. Legal Standards**

2 Federal Rule of Civil Procedure 65(b)(4) provides that “[o]n 2 days’ notice to the
3 party who obtained the [temporary restraining] order without notice--or on shorter
4 notice set by the court--the adverse party may appear and move to dissolve or modify
5 the order.” Fed. R. Civ. P. 65(b)(4). Upon the filing of a motion to dissolve the
6 temporary restraining order, “[t]he court must . . . hear and decide the motion as
7 promptly as justice requires.” *Id.*

8 “A plaintiff seeking a preliminary injunction must establish that he is likely to
9 succeed on the merits, that he is likely to suffer irreparable harm in the absence of
10 preliminary relief, that the balance of equities tips in his favor, and that an injunction
11 is in the public interest.” *Winter v. Nat’l Res. Defense Council, Inc.*, 555 U.S. 7, 20
12 (2008). The standard for issuing a preliminary injunction and a temporary restraining
13 order under Rule 65 are the same. *See Quiroga v. Chen*, 735 F. Supp.2d 1226, 1228 (D.
14 Nev. 2010) (“Temporary restraining orders are governed by the same standard
15 applicable to preliminary injunctions.”). “The stringent restrictions imposed
16 by . . . Rule 65 on the availability of ex parte temporary restraining orders reflect the
17 fact that our entire jurisprudence runs counter to the notion of court action taken before
18 reasonable notice and an opportunity to be heard has been granted both sides of a
19 dispute.” *Granny Goose Foods, Inc. v. Bhd. of Teamsters*, 415 U.S. 423, 438-39
20 (1974).

21 The Anti-Injunction Act prevents federal courts from enjoining pending state
22 court proceedings, unless the requested injunction falls within one of the listed
23 exceptions in the statute. The Anti-Injunction Act states that

24 A court of the United States may not grant an injunction to stay
25 proceedings in a State court except as expressly authorized by Act of
26 Congress, or where necessary in aid of its jurisdiction, or to protect or
effectuate its judgments.

27 28 U.S.C. § 2283. The Supreme Court has held that “[t]he anti-injunction statute goes
28 back almost to the beginnings of our history as a Nation[,]” and “the consistent

1 understanding”of the statute “has been that its basic purpose is to prevent needless
2 friction between state and federal courts.” *Mitchum v. Foster*, 407 U.S. 225, 231-33
3 (1972) (citation omitted). “[T]he [Anti-Injunction] Act’s core message is one of respect
4 for state courts[; t]he Act broadly commands that those tribunals ‘shall remain free from
5 interference by federal courts.’” *Smith v. Bayer Corp.*, 564 U.S. 299, 306 (2011)
6 (quoting *Atl. Coast Line R. Co. v. Bhd. of Locomotive Eg’rs.*, 398 U.S. 281, 282
7 (1970)).

8 **C. Anti-Injunction Act**

9 Courts have concluded that a request to issue an injunction staying an unlawful
10 detainer action in federal court is prohibited by the Anti-Injunction Act. *See, e.g., Gray*
11 *v. Bakersfield Parks, LP*, Case No. 1:16-cv-01860-LJO-JLT, 2016 WL 7229112, at *2
12 (E.D. Cal. Dec. 13, 2016) (“Numerous district courts in California have found that the
13 Anti-Injunction Act prohibits a federal district court from issuing a TRO staying
14 unlawful detainer proceedings in state court.”). In this case, Defendant filed an
15 unlawful detainer action against Plaintiffs on January 18, 2017 in the Superior Court
16 of California, County of San Diego. (ECF No. 8-2 at 39-41). On January 31, 2017, the
17 clerk of the Superior Court of California, County of San Diego, issued a default
18 judgment against Plaintiffs. *Id.* at 74-75. The default judgment states that “Santee
19 Apartments, LP . . . is entitled to possession of the premises located at 11059 Woodside
20 Avenue #1, Santee, CA 92071[.]” *Id.* at 75. Counsel for Defendant states in a
21 declaration that the state court denied Plaintiffs’ motion to set aside the default on
22 March 29, 2017, and that “Defendant proceeded with the Writ of Possession and
23 lockout occurred on March 30, 2017, prior to the initial hearing on the subject TRO and
24 Motion for Preliminary Injunction.” (ECF No. 8-2 at 5; Adkins Decl. at ¶¶ 18-19).

25 Plaintiffs contend the requested injunction is not barred by the Anti-Injunction
26 Act because “the state court proceeding has been terminated, and this Court directed the
27 injunction solely at Defendant, and not the state court, nor the prior state court
28 proceeding.” (ECF No. 11 at 5). However, the Anti-Injunction Act’s “mandate extends

1 not only to injunctions affecting pending proceedings, but also to injunctions against
2 the *execution or enforcement of state judgments.*” *Henrichs v. Valley View Dev.*, 474
3 F.3d 609, 616 (9th Cir. 2007) (emphasis added). Accordingly, the Anti-Injunction Act
4 bars a federal court from issuing an injunction of the writ of possession arising from a
5 state unlawful detainer action. *See id.* (“An injunction may not be used to evade the
6 dictates of the [Anti-Injunction] Act if the injunction effectively blocks a state court
7 judgment.”). The Court concludes that the Anti-Injunction Act prohibits this Court
8 from issuing an injunction to prevent the enforcement of the default judgment and writ
9 of possession contained in the default judgment entered by the clerk of the Superior
10 Court of California, County of San Diego on January 31, 2017 (ECF No. 8-2 at 74-75)
11 – unless an exception to the Anti-Injunction Act applies to the injunction requested by
12 Plaintiffs.

13 The Anti-Injunction Act presents “an absolute prohibition [] against enjoining
14 state court proceedings, unless the injunction falls within one of three specifically
15 defined exceptions.” *Atl. Coast Line*, 398 U.S. at 286. The Court of Appeals has found
16 that “the exceptions to the Anti–Injunction Act must be construed narrowly and doubts
17 as to the propriety of a federal injunction against a state court proceeding should be
18 resolved in favor of permitting the state action to proceed.” *Lou v. Belzberg*, 834 F.2d
19 730, 739 (9th Cir. 1987).

20 **i. First Exception: Expressly Authorized by Congress**

21 Under the first exception to the Anti-Injunction Act, the federal court may grant
22 an injunction to stay a state court proceeding “as expressly authorized by Act of
23 Congress[.]” 28 U.S.C. § 2283. In *Mitchum v. Foster*, the Supreme Court considered
24 whether 42 U.S.C. § 1983 fell under the first exception to the Anti-Injunction Act. 407
25 U.S. at 236-37. The Supreme Court held that “a federal law need not expressly
26 authorize an injunction of a state court proceeding in order to qualify as an exception.”
27 *Id.* at 237. Rather, the test to determine whether the first exception applies “is whether
28 an Act of Congress, clearly creating a federal right or remedy enforceable in a federal

1 court of equity, could be given its intended scope only by the stay of a state court
2 proceeding.” *Id.* at 238. After determining that the legislative history of 42 U.S.C. §
3 1983 demonstrated the statute’s purpose was to allow “the federal courts . . . to protect
4 the people from unconstitutional action under color of state law,” the Supreme Court
5 concluded that the statute “f[ell] within the ‘expressly authorized’ exception of” the
6 Anti-Injunction Act. *Id.* at 242-43.

7 However, the Fair Housing Act does not satisfy the first exception to the Anti-
8 Injunction Act when a plaintiff seeks to enjoin a state court unlawful detainer action
9 because the Fair Housing Act is not a federal statute that “could be given its intended
10 scope only by the stay of a state court proceeding.” *Id.* at 238. *See Gray*, 2016 WL
11 7229112, at *3 (finding the first exception to the Anti-Injunction Act did not apply
12 because “it is not at all clear that the Fair Housing Act ‘could be given its intended
13 scope only by the stay of a state court proceeding’”) (quoting *Mitchum*, 407 U.S. at
14 238). The first exception has been found to not apply to the Fair Housing Act because
15 the statute can be enforced in both state and federal courts. *See id.* at *2; 42 U.S.C. §
16 3613(a)(1)(A) (“An aggrieved person may commence a civil action [under the Fair
17 Housing Act] in an appropriate United States district court or State court”). Given that
18 Plaintiffs’ Fair Housing Act claim is enforceable in both state and federal court, the
19 Court finds that the first exception to the Anti-Injunction Act is inapplicable to the
20 injunction requested by Plaintiffs to prevent the enforcement of the default judgment
21 and writ of possession contained in the default judgment entered by the clerk of the
22 Superior Court of California, County of San Diego on January 31, 2017 (ECF No. 8-2
23 at 74-75).¹ *See also Sierra*, 528 F. Supp.2d at 468 (“Since the Fair Housing Act is
24 expressly enforceable in both state and federal courts, no stay of a state action is
25 required to secure its intended scope, and consequently the first exception to the
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27 ¹ Plaintiffs have not identified – and the Court has been unable to locate – any
28 precedent holding that Plaintiffs’ other federal claim brought under Section 504 of the
federal Rehabilitation Act of 1973, 29 U.S.C. §794 falls within any exception to the
Anti-Injunction Act.

1 Anti-Injunction Act is here inapplicable.”).

2 **ii. Second Exception: Necessary in Aid of its Jurisdiction**

3 Under the second exception to the Anti-Injunction Act, a federal court may issue
4 an injunction of state court proceedings when “necessary in aid of [the federal court’s]
5 jurisdiction[.]” 28 U.S.C. § 2283. The Court of Appeals has stated that “the
6 necessary-in-aid-of-jurisdiction exception applies to *in rem* proceedings where the
7 federal court has jurisdiction over the res and the state court proceedings might interfere
8 with that.” *Negrete v. Allianz Life Ins. Co. of N. Am.*, 523 F.3d 1091, 1101 (9th Cir.
9 2008). This exception has also been applied in federal *in rem* proceedings where a
10 subsequent state court proceeding could interfere with previous federal court
11 jurisdiction over a *res*, and in cases involving advanced federal *in personam* litigation
12 or when a case is removed from state court. *See Le v. 1st Nat. Lending Servs.*, No.
13 13-CV-01344-LHK, 2013 WL 2555556, at *2 (N.D. Cal. June 7, 2013). The Supreme
14 Court held that this exception is satisfied, along with the related third exception to the
15 Anti-Injunction Act discussed below, when “some federal injunctive relief may be
16 necessary to prevent a state court from so interfering with a federal court’s
17 consideration or disposition of a case as to seriously impair the federal court’s
18 flexibility and authority to decide that case.” *Atl. Coast Line*, 398 U.S. at 295.

19 Plaintiffs rely on *Sierra v. City of New York* and two other district court decisions
20 to demonstrate that the second exception to the Anti-Injunction Act applies to this
21 matter, such that the Court may issue an injunction to prevent the enforcement of the
22 default judgment and writ of possession contained in the default judgment entered by
23 the clerk of the Superior Court of California, County of San Diego on January 31, 2017
24 (ECF No. 8-2 at 74-75). In *Sierra*, a New York district court stated that

25 [s]ome courts . . . have taken the view that the exception extends beyond
26 *in rem* cases to cases that, while technically *in personam*, are analogous
27 to *in rem* cases, or, even more broadly, to cases where some federal
28 injunctive relief may be necessary to prevent a state court from so
interfering with a federal court’s consideration or disposition of a case as
to seriously impair the federal court’s flexibility and authority to decide
the case[.]

1 528 F. Supp.2d at 468. The court in *Sierra* highlighted two district court cases where
2 courts took a “broader interpretation of the” second exception to the Anti-Injunction
3 Act, and issued injunctions to state court housing proceedings. *Id.* (citing *McNeill v.*
4 *N.Y. City Hous. Auth.*, 719 F. Supp. 233 (S.D.N.Y. 1989); *Lattimore v. Nw. Co-op*
5 *Homes Ass’n*, No. Civ.A. 90–0049 RCL, 1990 WL 10521534 (D. D.C. Mar. 26, 1990)).
6 However, the *Sierra* court observed that in both *McNeill* and *Lattimore*, those district
7 courts applied the second exception to the Anti-Injunction Act because “the plaintiffs
8 were unable to raise their federal claims in the state court proceedings they sought to
9 enjoin.” *Id.*

10 In *McNeill*, the court found the second exception did not apply because the
11 plaintiffs “ha[d] been terminated from the Section 8 program due to circumstances
12 beyond their control without adequate notice and without any opportunity to challenge
13 termination” in the state court proceeding. 719 F. Supp. at 256. The court found that
14 “[u]nless eviction proceedings are stayed long enough to adjudicate plaintiffs’ alleged
15 right to retroactive reinstatement in the Section 8 program, plaintiffs will be evicted
16 before this case can be decided.” *Id.* However, the court found that the plaintiffs did
17 not have the opportunity to challenge the termination of their Section 8 status because
18 the state court where the plaintiffs were being sued for eviction did “not have
19 jurisdiction to adjudicate plaintiffs’ claims for retroactive reinstatement of their Section
20 8 assistance; nor d[id] it have power to issue relief on those claims.” *Id.* at 241, 255-56.
21 Because the state court eviction proceeding “d[id] not give plaintiffs an adequate forum
22 to challenge the termination of their Section 8 assistance[,]” the court found that “the
23 ‘in aid of jurisdiction’ exception to the Anti-Injunction Act applie[d]” to the plaintiffs’
24 requested injunction – and the court issued a preliminary injunction staying the state
25 court proceedings. *Id.* at 256, 256 n.29.

26 Similarly, in *Lattimore*, the plaintiff sought a preliminary injunction staying a
27 state court eviction proceeding. 1990 WL 10521534, at *1, *7. The court found that
28 the second exception to the Anti-Injunction Act applied to the proposed injunction

1 because the plaintiff was prohibited from raising the claims that she brought in federal
2 court “as a defense to the eviction proceeding in [the state] Superior Court because,
3 under the rules of the Landlord and Tenant Branch, only an equitable defense of
4 recoupment or set-off, or a counterclaim for a money judgment based on the payment
5 of rent or on expenditures claimed as credits against rent or for equitable relief related
6 to the premises may be claimed as a defense.” *Id.* at *4. The court concluded that the
7 second exception applied and issued a preliminary injunction staying the state court
8 eviction proceeding because it found that the state court “was not able to consider what
9 seems to be the heart of the plaintiff’s case.” *Id.* at *5, *7.

10 By contrast, Plaintiffs have not presented evidence that they were unable to
11 present any of their claims in the state court unlawful detainer action. In particular,
12 Plaintiffs were permitted to bring their Fair Housing Act claim in the state court
13 unlawful detainer action as an affirmative defense. *See Gray*, 2016 WL 7229112, at *3
14 (“The Fair Housing Act can be raised as a defense in a California unlawful detainer
15 action”); *Thomas v. Hous. Auth of the Cty. of Los Angeles*, No. CV 04–6970 MMM
16 (RCx), 2005 WL 6136432, at *3 (C.D. Cal. June 3, 2005) (raising Fair Housing Act
17 affirmative defense to California state court unlawful detainer action); *Sierra*, 528 F.
18 Supp.2d at 468 (finding the plaintiff could raise her “Fair Housing Act [claim] as an
19 affirmative defense to the eviction proceeding” under New York law). Unlike the
20 plaintiffs in *McNeill* and *Lattimore*, Plaintiffs were not “unable to raise their federal
21 claims in the state court proceedings they s[seek] to enjoin[.]” *Sierra*, 528 F. Supp.2d
22 at 468. The Court finds that the second exception to the Anti-Injunction Act does not
23 apply to the injunction requested by Plaintiffs to prevent the enforcement of the default
24 judgment and writ of possession contained in the default judgment entered by the clerk
25 of the Superior Court of California, County of San Diego on January 31, 2017 (ECF
26 No. 8-2 at 74-75). *See also Gray*, 2016 WL 7229112, at *3 (finding that the second
27 “exception does not apply to stay unlawful detainer actions, especially previously filed
28 state court actions” and that the “exception is inapplicable here, where Plaintiff seeks

1 to enjoin a previously filed state court unlawful detainer action.”); *Le*, 2013 WL
2 2555556, at *2 (“[C]ourts have repeatedly found that” the second “exception does not
3 apply to stay unlawful detainer actions, especially previously filed state court actions.”).

4 **iii. Third Exception: Protect the Federal Court’s Judgments**

5 Under the third exception to the Anti-Injunction Act, “a federal court [may]
6 enjoin a state proceeding only in rare cases, when necessary to ‘protect or effectuate
7 [the federal court’s] judgments.’” *Smith*, 564 U.S. at 302 (quoting 28 U.S.C. § 2283).
8 The third exception, or the ‘relitigation’ exception, “authorizes an injunction to prevent
9 state litigation of a claim or issue that previously was presented to and decided by the
10 federal court.” *Id.* at 306 (citation and quotation marks omitted). This exception is
11 inapplicable to the circumstances of this case because this Court has not rendered any
12 judgment. *See Le*, 2013 WL 2555556, at *2 (finding the third exception did not apply
13 to a request to stay a state court unlawful detainer proceedings because the federal
14 “[c]ourt has yet to reach any judgment in this case.”). As there is no other “former
15 federal adjudication” of Plaintiff’s claims, the third ‘relitigation’ exception is
16 inapplicable to the injunction requested by Plaintiffs to prevent the enforcement of the
17 default judgment and writ of possession contained in the default judgment entered by
18 the clerk of the Superior Court of California, County of San Diego on January 31, 2017
19 (ECF No. 8-2 at 74-75). *Smith*, 564 U.S. at 318.

20 **IV. Conclusion**

21 The Court concludes that none of the three exceptions to the Anti-Injunction Act
22 apply to the injunction requested by Plaintiffs in their Ex Parte Application for
23 Temporary Restraining Order and Motion for Preliminary Injunction (ECF No. 3) and
24 their reply to Defendant’s Motion to Dissolve the Temporary Restraining Order and
25 opposition (ECF No. 11). Therefore, the Court is prohibited by the Anti-Injunction Act
26 from issuing an injunction to prevent the enforcement of the default judgment and writ
27 of possession contained in the default judgment entered by the clerk of the Superior
28 Court of California, County of San Diego on January 31, 2017 (ECF No. 8-2 at 74-75).

1 IT IS HEREBY ORDERED that, pursuant to Fed. R. Civ. P. 65(b)(4),
2 Defendant's Motion to Dissolve the Temporary Restraining Order (ECF No. 8) is
3 granted. The temporary restraining order entered by this Court on March 30, 2017
4 (ECF No. 6) is hereby DISSOLVED.

5 DATED: April 11, 2017

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7 **WILLIAM Q. HAYES**
8 United States District Judge

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