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

SAWSAN WARDA, and MAJID M.
TOMA,

Plaintiffs,

v.

SANTEE APARTMENTS LP,

Defendant.

CASE NO. 17cv648-WQH-JMA

ORDER

HAYES, Judge:

The matter before the Court is the Motion for Temporary Restraining Order (ECF No. 3) filed by Plaintiffs Majid M. Toma and Sawsan Warda (“Plaintiffs”).

On March 30, 2017, Plaintiffs initiated this action by filing a Complaint (ECF No. 1) and a motion for leave to proceed in forma pauperis (ECF No. 2). On March 30, 2017, the Court issued an order granting Plaintiffs’ motion for leave to proceed in forma pauperis (ECF No. 4).

Federal Rule of Civil Procedure 65(b) provides that:

(1) [t]he court may issue a temporary restraining order without written or oral notice to the adverse party or its attorney only if:

(A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and

(B) the movant’s attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

Fed. R. Civ. P. 65(b)(1).

1 Plaintiff requests the Court issue a temporary restraining order preventing
2 Defendant Santee Apartments LP (“Defendant”) from taking action to prevent
3 Plaintiffs’ continuous occupancy of their rental unit pending the outcome of this matter,
4 or mandate that Plaintiffs be allowed back into their rental unit in the event that the
5 lockout takes place prior to the Court’s consideration of this matter. (ECF No. 3 at 6-7).

6 In the Verified Complaint, Plaintiffs have identified immediate and irreparable
7 injury which may result before Defendant can be heard in opposition. Plaintiffs allege
8 that the state court denied Plaintiffs’ Motion to Set Aside Default Judgment, and that
9 Defendant may execute an outstanding writ of possession as of the date of this Order,
10 March 30, 2017. (ECF Nos. 1 at ¶ 26; 1-2 at 18). Courts have found that the threat of
11 eviction is sufficient to satisfy the irreparable harm requirement under Rule 65(b). *See*
12 *Garrett v. City of Escondido*, 465 F. Supp.2d 1043, 1052 (S.D. Cal. 2006) (Houston, J.)
13 (finding “irreparable harm to [the plaintiffs] and immediate harm due to the threat of
14 eviction” because the “[p]laintiffs would have a difficult, if not impossible, time finding
15 alternative housing where their kids attend school.”).

16 Plaintiffs attach an exhibit to the Complaint demonstrating their effort to provide
17 notice of this action and the Motion for Temporary Restraining Order to Defendant by
18 emailing the Complaint, Temporary Restraining Order, and Declaration of Clifford A.
19 Dover to Defendant’s counsel. (ECF No. 1-3 at 3). The Court finds that Plaintiffs have
20 made an adequate attempt to provide Defendant with notice of this action and the
21 Motion for Temporary Restraining Order prior to any irreparable injury.

22 The Court finds that Plaintiffs have met the requirements of Rule 65(b). The
23 Court declines to require Plaintiffs to provide a security. *See Conn. Gen. Life Ins. Co.*
24 *v. New Images of Beverly Hills*, 321 F.3d 878, 882 (9th Cir. 2003).

25 CONCLUSION

26 IT IS HEREBY ORDERED that Plaintiff’s Motion for a Temporary Restraining
27 Order (ECF No. 3) is GRANTED. As of the date and time this Order is filed,
28 Defendant is hereby ENJOINED from taking any actions to prevent Plaintiffs’

1 continuous occupancy of their rental unit, pending further order of this Court. Plaintiffs
2 shall serve a copy of this Order, the Complaint and the summons on Defendant
3 forthwith.

4 IT IS FURTHER ORDERED that (1) Plaintiffs shall file proof of service in the
5 record of this case no later than Monday, April 3, 2017; (2) Defendant may file any
6 documents for the Court's consideration no later than Tuesday, April 4, 2017; (3) the
7 Court will hold an evidentiary hearing on Thursday, April 6, 2017 at 9:30 AM in
8 Courtroom 14B.

9 DATED: March 30, 2017

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11 **WILLIAM Q. HAYES**
12 United States District Judge
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