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

CATHERINE BRYAN,

Plaintiff,

vs.

CITY OF CARLSBAD, et al.,

Defendants.

CASE NO. 17cv697-LAB (BLM)

**ORDER DENYING MOTION FOR
TEMPORARY RESTRAINING ORDER**

Plaintiff Catherine Bryan submitted an *ex parte* motion for a temporary restraining order (TRO), with attached exhibits. By discrepancy order, the Court accepted the motion.

The motion makes clear Bryan is not seeking a preliminary injunction. (TRO Application at 2:16–21.)¹ Instead, she asks for a TRO so that she will have time to obtain enough discovery to seek a preliminary injunction.

In an earlier case, *Kokopelli Community Workshop Corp. v. Select Portfolio Servicing, Inc.*, 10cv1605-CAB (KSC), Bryan litigated ownership of the property and lost. She then took an appeal, which the Ninth Circuit has yet to resolve.² The Court has no jurisdiction to make

¹ The motion is divided into an “Application for TRO and Order to Show Cause” and a memorandum in support of the application.

² That case, 13-56681, *Bryan v. Select Portfolio Servicing*, was opened on September 26, 2013. The latest docket entry, dated May 5, 2017, is a letter sent to defense counsel in response to his inquiry about the case status. The letter says the case is due to be assigned

1 any rulings on issues that are on appeal in that case; only the Ninth Circuit can do that. See
2 *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982).

3 The complaint in this case alleges that the City of Carlsbad and its code officer Scot
4 Rudinger have been using municipal property codes as a pretext to harass and oppress her.
5 It alleges that Defendant’s agents have illegally intruded on her property and singled her out
6 for arbitrary enforcement of property regulations. The buyer(s) and purported new owner(s)
7 of the property are not named as Defendants in this case.

8 As a result of litigation in state court, the house is scheduled to be demolished this
9 month. (Memorandum at 15:17–16:4.) Bryan asks the Court to “enjoin [Defendants] from
10 condemning and demolishing her home . . .” after her failure to make mandated repairs.
11 (Memorandum at 20:17–19.) She believes that if her house is demolished, she will lose
12 the equity she says she still has in her home. (*Id.* at 3:10–15.) Bryan believes the state court
13 proceeding was carried out in a manner that violates her federal due process rights. (*Id.* at
14 16:1–17:11.)

15 The motion is really raising two groups of claims. First, Bryan argues that the state
16 court violated her constitutional rights when it authorized an inspection warrant and later
17 adjudicated the city’s claim for condemnation and demolition of the house. Those
18 arguments are based on matters at issue in this case. Second, she claims that she will be
19 harmed because of her ownership in the house. She contends the demolition will extinguish
20 her Truth in Lending Act (TILA) based rights to the \$2 million in equity she has in the
21 property. Those arguments are based on matters at issue in the case on appeal.

22 The Anti-injunction Act, 28 U.S.C. § 2283, generally prevents this Court from enjoining
23 state court proceedings. The only exception to that prohibition that might apply here is that
24 a court can grant injunctions in support of its jurisdiction.³ But this Court lacks jurisdiction

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26 to a panel of judges within the next few months.

27 ³ The other exceptions are where an act of Congress expressly authorizes the
28 injunction (which is not the case here), and where an injunction is necessary to protect or
effectuate the Court’s judgments. But because the Court has not issued any judgments in
this case, that exception is not applicable either.

1 over the issue of ownership, TILA rights, and related issues that are on appeal. Currently,
2 the Ninth Circuit has jurisdiction over those issues, and only that court could enjoin state
3 proceedings that might impinge on Bryan's claims in case 10cv1605. As for the claims at
4 issue in this case, there is no applicable exception to the Anti-injunction Act. The
5 condemnation and demolition of the house do not threaten this Court's jurisdiction over
6 claims pending in this case. Any irregularities in the state court's proceedings can be
7 litigated in state court, either at the trial court level or on appeal, but they cannot be litigated
8 in this case.

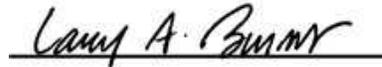
9 The motion is defective in a number of other ways, but because the Court lacks
10 jurisdiction to grant the relief Bryan is asking for, this order does not address those issues.
11 The motion is **DENIED**, and the request for judicial notice is **DENIED AS MOOT**.

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13 **IT IS SO ORDERED.**

14 DATED: June 2, 2017

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HONORABLE LARRY ALAN BURNS
United States District Judge

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