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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Josette Hernandez,
Plaintiff

v.

Weststates Property Management; Overton
Associates, LP, Freddy Ludena, and Alma Lopez,
Defendants

Case No.: 2:14-cv-02113-JAD-NJK

**Order Denying Plaintiff's Emergency
Motion for Temporary Restraining
Order and Preliminary Injunction
[Docs. 2, 5]**

12 Plaintiff Josette Hernandez filed this action this afternoon in an attempt to stop her 5:00 p.m.
13 eviction from her apartment unit as ordered by the Moapa Valley Justice Court. She suggests that
14 she would appeal the justice court's decision in the state-court system, but the Moapa Valley Justice
15 Court is closed today.¹ So she turns to this court instead, alleges that her eviction violates the Fair
16 Housing Act,² and moves for an emergency temporary restraining order and preliminary injunction to
17 stop the eviction and the effect of the Moapa Valley court's order.³

18 The standards for granting a temporary restraining order and a preliminary injunction are the
19 same.⁴ Under Rule 65(d), "Every order granting an injunction . . . must: (a) state the reasons why it

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21 ¹ Doc. 2 at 5 ("On December 11, 2014, the Justice Court of Moapa Valley erroneously granted
22 summary eviction against Hernandez . . . Hernandez has no recourse to appeal the eviction because the
23 Moapa Valley Justice Court is closed on December 12, 2014.").

24 ² Doc. 1.

³ Docs. 2, 5.

25 ⁴ See *Stuhlbarg International Sales Co., Inc. v. John D. Brush and Co., Inc.*, 240 F.3d 832, 839
26 n.7 (9th Cir. 2001); *Brown Jordan International, Inc. v. Mind's Eye Interiors, Inc.*, 236 F. Supp. 2d
27 1152, 1154 (D. Haw. 2002); *Tootsie Roll Industries, Inc. v. Sathers, Inc.*, 666 F. Supp. 655, 658 (D. Del.
28 1987) (applying preliminary injunction standard to temporary restraining order issued with notice).
Otherwise, a temporary restraining order "should be restricted to serving [its] underlying purpose of
preserving the status quo and preventing irreparable harm just so long as is necessary to hold a hearing,
and no longer." *Granny Goose Foods, Inc. v. Board of Teamsters & Auto Truck Drivers Local No. 70*,

1 issued; (b) state its terms specifically; and (c) describe in reasonable detail—and not by referring to
2 the complaint or other document—the act or acts restrained or required.”⁵ “A preliminary injunction
3 is an extraordinary and drastic remedy, one that should not be granted unless the movant, *by a clear*
4 *showing*, carries the burden of persuasion.”⁶ It is never granted as of right.⁷ As the United States
5 Supreme Court explained in *Winter v. Natural Resources Defense Council*, the district court inquires
6 whether the movant has demonstrated: (1) a likelihood of success on the merits, (2) irreparable
7 injury, (3) that remedies available at law are inadequate, (4) that the balance of hardships justify a
8 remedy in equity, and (5) that the public interest would not be disserved by a favorable ruling.⁸

9 However, federal courts are courts of limited jurisdiction.⁹ Under Federal Rule of Civil
10 Procedure 12(h)(3), “If the court determines at any time that it lacks subject-matter jurisdiction, the
11 court must dismiss the action.”¹⁰ The *Rooker–Feldman* doctrine recognizes that a district court lacks
12 subject matter jurisdiction to review—directly or indirectly—a state court judgment.¹¹ Its application
13 “is confined to cases of the kind from which the doctrine acquired its name: cases brought by state-
14 court losers complaining of injuries caused by state-court judgments rendered before the district
15 court proceedings commenced and inviting district court review and rejection of those judgments.”¹²
16 The doctrine also bars relitigation of issues that are “inextricably intertwined” with a state court

17 415 U.S. 423, 439 (1974).

18 ⁵ Fed. R. Civ. Proc. 65(d).

19 ⁶ *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (emphasis in original) (quotation omitted).

20 ⁷ See *Winter v. Natural Resources Defense Council*, 555 U.S. 7, 24 (2008). See also *eBay, Inc.*
21 *v. MercExchange, L.L.C.*, 547 U.S. 388, 393 (2006).

22 ⁸ See *Winter*, 555 U.S. at 20.

23 ⁹ *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994); *Owen Equip. & Erection*
24 *Co. v. Kroger*, 437 U.S. 365, 374 (1978).

25 ¹⁰ Fed. R. Civ. Proc. 12(h)(3).

26 ¹¹ See *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280, 285 (2005); *Noel v.*
27 *Hall*, 341 F.3d 1148, 1164 (9th Cir. 2003). The doctrine is derived from *District of Columbia Court of*
Appeals v. Feldman, 460 U.S. 462 (1983), and *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923).

28 ¹² *Exxon Mobil Corp.*, 544 U.S. at 284.

1 judgment.¹³ Thus, the fact that a particular provision of federal law was not raised in a state court
2 proceeding will not bar application of the *Rooker-Feldman* doctrine if the federal suit is an
3 impermissible *de facto* appeal.

4 In this case, although I am sympathetic to Hernandez's plight, it is clear from her
5 representations that her request to enjoin her eviction proceedings is a *de facto* appeal of the state
6 court's summary eviction decision. As I lack jurisdiction over this claim under the *Rooker-Feldman*
7 doctrine, Hernandez is unlikely to succeed on the merits of her claim. I need not reach the other
8 prongs of the conjunctive test before denying her request for injunctive relief.

9 Accordingly, it is HEREBY ORDERED that plaintiffs' emergency motion for temporary
10 restraining order [**Doc. 2**] and emergency motion for preliminary injunction [**Doc. 5**] are **DENIED**.

11 DATED: December 12, 2014 at 4:10 p.m.

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16 Jennifer A. Dorsey
17 United States District Judge
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28 ¹³ *Doe v. Mann*, 415 F.3d 1038, 1042 (9th Cir. 2005).