

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Kevin Starks v. FPI Management, et al.

Starks v. FPI Management · No. 2:25-cv-01382-TLN-CKD (PS) · Decided June 5, 2025

OPINION

(PS) Starks v. FPI Management

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 KEVIN STARKS, No. 2:25-cv-01382-TLN-CKD (PS)

12 Plaintiff,

13 v. FINDINGS AND RECOMMENDATIONS

14 FPI MANAGEMENT, et al. 15 Defendants. 16 17 On June 2, 2025, plaintiff Kevin Starks filed
a motion requesting a preliminary injunction 18 which the Court construes as requesting
emergency relief under Federal Rule of Civil Procedure 19 65. (ECF No. 15.) Because plaintiff
proceeds without counsel, this matter is referred to the 20 undersigned by Local Rule 302(c)(21)
pursuant to 28 U.S.C. § 636. This motion is appropriate for 21 decision without oral argument
under Local Rule 230(g). For the reasons set forth below, the 22 motion for preliminary injunction
should be denied. 23 I. Background 24 Defendant I.Q. Data International, Inc. removed this action
to this Court on May 14, 2025. 25 (ECF No. 1.) Plaintiff’s initial complaint was filed in the San
Joaquin County Superior Court on

26 March 25, 2025, against defendants FPI Management; Patmon Company, Inc.; Stonebrier

27 Apartments; and I.Q. Data International, Inc. (Id.) Plaintiff’s allegations involve allegedly 28
improper fees related to early termination of a lease agreement that included a buyout addendum.

1 Through this action, plaintiff seeks damages and a “preliminary and permanent injunction” to 2
have defendants remove any and all credit information or data that was shared as a result of 3
defendants’ actions. (Id. at 27-28.) 4 Defendants FPI Management; Patmon Company, Inc., and
Stonebrier Apartments filed a 5 motion to dismiss on May 21, 2025. (ECF No. 6.) These
defendants allege that plaintiff has not 6 properly served defendants Patmon Stonebrier, LP
(erroneously sued as Stonebrier Apartments) 7 and Patmon Company, Inc. with the complaint, but
these entities are appearing for purposes of 8 joining FPI Management’s motion to dismiss. (Id.)
Defendant I.Q. Data International, Inc. filed a 9 motion to dismiss on May 29, 2025. (ECF No.
12.) 10 On June 2, 2025, plaintiff filed the motion for preliminary injunction presently before the

11 Court. (ECF No. 15.) Plaintiff requests that the Court remand this case back to the Superior Court 12 (id. at 1, 3) or only remove I.Q. Data International, Inc. and remand the remaining defendants (id. 13 at 3). Plaintiff also requests that the Court “grant immediate preliminary injunction ordering [I.Q. 14 Data International, Inc.] to cease any collections activity, remove and cease any assessment of 15 fees and interest, and remove any credit reporting while the account and their conduct under 16 collections law is under dispute.” (Id. at 3-4.) 17 II. Legal Standard 18 “A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on 19 the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the 20 balance of equities tips in his favor, and that an injunction is in the public interest.” *Winter v. 21 Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Under another formulation of the test used 22 in the Ninth Circuit, a likelihood of success is not an absolute requirement. *Alliance for the Wild 23 Rockies v. Cottrell*, 632 F.3d 1127, 1131-32 (9th Cir. 2011). Rather, the plaintiff shows serious 24 questions are raised and the balance of hardships tips in plaintiff’s favor. *Drakes Bay Oyster Co. 25 v. Jewell*, 747 F.3d 1073, 1085 (9th Cir. 2014). “Under any formulation of the test, plaintiff must 26 demonstrate that there exists a significant threat of irreparable injury.” *Oakland Tribune, Inc., v. 27 Chronicle Pub. Co., Inc.*, 762 F.2d 1374, 1376 (9th Cir. 1985). A preliminary injunction is an 28 extraordinary remedy that may be awarded only upon a clear showing that the movant is entitled 1 to relief. *Winter*, 555 U.S. at 22, 24. A court may issue a preliminary injunction only on notice to 2 the adverse party. Fed. R. Civ. P. 65(a). 3 Under the Court’s local rules, 4 All motions for preliminary injunction shall be accompanied by (i) briefs on all relevant legal issues to be presented by the motion, 5 (ii) affidavits in support of the motion, including affidavits on the question of irreparable injury, and (iii) a proposed order with a 6 provision for a bond. See L.R. 230, 151. 7 Local Rule 231(d). 8 III. Analysis 9 As a preliminary matter, plaintiff has not satisfied the requirements of this Court’s local 10 rule governing applications for preliminary injunctions. Plaintiff has not filed a brief on all 11 relevant legal issues presented by the motion, has not filed an affidavit in support of the existence 12 of an irreparable injury, and has not filed a proposed order. While all defendants have appeared in 13 the case and should receive notice of plaintiff’s motion for preliminary injunction through 14 CM/ECF Notice of Electronic Filing, there is no evidence that plaintiff served the motion on 15 defendants. The motion is therefore procedurally defective to the extent it requests a preliminary 16 injunction. See Local Rule 231. Plaintiff’s failure to comply with the requirements of this Court’s 17 local rules is sufficient justification to deny a temporary restraining order. See *Tri-Valley CAREs 18 v. U.S. Dep’t of Energy*, 671 F.3d 1113, 1131 (9th Cir. 2012) (“Denial of a motion as the result of 19 a failure to comply with local rules is well within a district court’s discretion.”); see also *Nible v. 20 Macomber*, No. 2:24-cv-01259-DJC-CSK-PC, 2024 WL 2133319, at *2 (E.D. Cal. May 13, 21 2024) (denying temporary restraining order sought by pro se plaintiff as procedurally deficient). 22 Plaintiff also fails to demonstrate he is likely to succeed on the merits of any claim as 23 required for a preliminary injunction to issue. Plaintiff’s motion does not furnish the Court with 24

any legal authority or evidence supporting plaintiff's claims. Plaintiff's motion appears to mainly
25 argue that the case should be remanded to state court. As the moving party, plaintiff bears the
26 burden of establishing the merits of the claims. See *Winter*, 555 U.S. at 20. Likelihood of
success 27 on the merits is the most important *Winter* factor, and it is also relevant to the court's
evaluation 28 of the other factors. See *Baird v. Bonta*, 81 F.4th 1036, 1044 (9th Cir. 2023).
Without showing a 1 likelihood of success on the merits, plaintiff also does not establish that the
balance of equities 2 tips in plaintiff's favor, or that an injunction is in the public interest. See *id.*;
Winter, 555 U.S. at 3 20. 4 Plaintiff also does not establish the likelihood that plaintiff will suffer
irreparable harm in 5 the absence of preliminary relief. As noted above, plaintiff's motion mainly
argues that plaintiff's 6 case should be remanded to state court. The only request for immediate
relief plaintiff makes is 7 for defendant I.Q. Data International, Inc. to "cease any collections
activity, remove and cease 8 any assessment of fees and interest, and remove any credit reporting"
while the account and 9 defendant's conduct is under dispute. (ECF No. 15 at 3-4.) Nothing in the
motion suggests 10 plaintiff is at risk of any irreparable harm in the absence of preliminary relief.
A plaintiff must 11 demonstrate immediate threatened injury as a prerequisite to preliminary
injunctive relief. *Los Angeles Mem'l Coliseum Comm'n v. Nat'l Football League*, 634 F.2d
1197, 1201 (9th Cir. 13 1980). Here, plaintiff's motion does not come close to alleging the type of
irreparable harm 14 necessary for a preliminary injunction. See *FDIC v. Garner*, 125 F.3d 1272,
1279 (9th Cir. 1997) 15 (the threat of injury "must be imminent, not remote or speculative"
(citation omitted)), cert. 16 denied, *Garner v. FDIC*, 523 U.S. 1020 (1998); *Caribbean Marine*
Servs. Co. v. Baldrige, 844 17 F.2d 668, 674 (9th Cir. 1988) ("Speculative injury does not
constitute irreparable injury sufficient 18 to warrant granting a preliminary injunction."). 19
Plaintiff's motion notes that plaintiff has received documents from defendants stating the 20 date
and time for appearance, but none of the documents are "certified as received by the court," 21
and plaintiff asks the Court to verify if the documents are credible and clarify when and where 22
any hearings will be held. Plaintiff is instructed to review the docket in this case to see the dates
23 and times of the pending hearings. Currently, there are two pending motions to dismiss (ECF
24 Nos. 6, 12) set for hearing on July 9, 2025, at 10:00 AM via Zoom before the undersigned.
25 Plaintiff may review the Court's Local Rules, and the district court website for further 26
information: <https://www.caed.uscourts.gov/caednew/index.cfm/judges/all-judges/5055/>. 27 IV.
Recommendation 28 For all the reasons set forth above, IT IS HEREBY RECOMMENDED that
plaintiff's 1 } motion for preliminary injunction (ECF No. 15) be denied. 2 These findings and
recommendations are submitted to the United States District Judge 3 || assigned to the case,
pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14) 4 || days after being
served with these findings and recommendations, any party may file written 5 || objections with
the court and serve a copy on all parties. Such a document should be captioned 6 || "Objections to
Magistrate Judge's Findings and Recommendations." Any reply to the objections 7 || shall be
served on all parties and filed with the court within seven (7) days after service of the 8 |

objections. Failure to file objections within the specified time may waive the right to appeal the 9 |
District court’s order. Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez v. □□□□□
951 10 | F.2d 1153, 1156-57 (9th Cir. 1991). 11 | Dated: June 5, 2025 aa / a /y i
12 CAROLYNK. DELANEY
13 UNITED STATES MAGISTRATE JUDGE
14] 5, star.1382.25 15 16 17 18 19 20 21 22 23 24 25 26 27 28