

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

Danielle Victor v. Southwest Wine & Spirits, LLC, et al.

No. 2:23-cv-00690-MEMF (PDx), Document 23 · No. 2:23-cv-00690-MEMF (PDx) · Decided March 10, 2023

OPINION

Danielle Victor v. Southwest Wine and Spirits, LLC

PER CURIAM.

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UNITED STATES DISTRICT COURT

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CENTRAL DISTRICT OF CALIFORNIA

8 9 Case No.: 2:23-cv-00690-MEMF (PDx)

DANIELLE VICTOR,

10 Plaintiff, ORDER DENYING PLAINTIFF’S MOTION

FOR TEMPORARY RESTRAINING

11

v. ORDERS AND EMERGENCY MOTION

12 AND REQUEST FOR IMMEDIATE RELIEF

[ECF NOS. 4, 9]

13 SOUTHWEST WINE & SPIRITS, LLC, et al. 14 Defendants. 15 16 17 18 Before the Court is
the Motion for Temporary Restraining Orders, ECF No. 9 (“TRO 19 Motion” or “TRO Mot.”), as
well as the Emergency Motion and Request for Immediate Relief, ECF

20 No. 4 (“Emergency Motion”), filed by Plaintiff Danielle Victor. For the reasons stated herein,
the

21 Court DENIES the TRO Motion and the Emergency Motion. 22 23 24 25 26 27 / / / 28 / / / 1

Case 2:23-cv-00690-MEMF-PD Document 23 Filed 03/10/23 Page 2 of 6 Page ID #:811 1 I.

Factual Background 2 On January 27, 2023, Plaintiff Danielle Victor (“Victor”), appearing pro se,
filed this case in 3 the Central District of California against forty defendants alleging forty-five
different claims, 4 ranging from wage and employment disputes, defamation, assault, sexual
battery and harassment, 5 racial discrimination, fraud, perjury, and negligence. See generally ECF
No. 1 (“Complaint” or 6 “Compl.”). 7 That same day, Victor also filed the instant TRO Motion. In
the TRO Motion, Victor refers 8 the Court to her prior Emergency Motion. Mot. at 3. The
Emergency Motion seeks judgment on all 9 Victor’s claims and requests multiple forms of relief,
including monetary damages, as well as 10 declarations that Defendants violated various

provisions of state law, an injunction preventing 11 Defendants from further violations of such laws, and removal of the individual Defendant lawyers 12 from the California State Bar. Emergency Motion at 49–117. The instant action is one of several 13 cases alleging similar facts. 14 II. Applicable Law 15 The underlying purpose of a temporary restraining order (“TRO”) is to preserve the status 16 quo and prevent irreparable harm before a preliminary injunction hearing may be held. *Granny 17 Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Loc. No. 70 of Alameda Cnty.*, 415 18 U.S. 423, 439 (1974); see also *Reno Air Racing Ass’n v. McCord*, 452 F.3d 1126, 1130–31 (9th 19 Cir.2006). Requests for temporary restraining orders are governed by the same general standards that 20 govern the issuance of a preliminary injunction. See *New Motor Vehicle Bd. of California v. Orrin 21 W. Fox Co.*, 434 U.S. 1345, 1347 n.2 (1977) 22 Injunctive relief, whether temporary or permanent, is an “extraordinary remedy, never 23 awarded as of right.” *Winter v. Natural Res. Defense Council*, 555 U.S. 7, 24 (2008). “A plaintiff 24 seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is 25 likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips 26 in his favor, and that an injunction is in the public interest.” *Am. Trucking Ass’ns, Inc. v. City of Los 27 Angeles*, 559 F.3d 1046, 1052 (9th Cir. 2009) (quoting *Winter*, 555 U.S. at 20). 28 / / / 2 Case 2:23-cv-00690-MEMF-PD Document 23 Filed 03/10/23 Page 3 of 6 Page ID #:812 1

III. Discussion 2 Before the Court reaches the merits of Victor’s TRO Motion and Emergency Motion, it must 3 determine whether (1) Victor complied with the necessary procedure to file a TRO, and (2) the 4 requested relief is equitable in nature. 5 A. Lack of Notice 6 Although a preliminary injunction cannot be granted without notice, a TRO may be granted 7 without notice to the adverse party under limited circumstances. FED. R. CIV. P. 65(a)–(b). Under 8 Rule 65(b), a court may issue a TRO without notice to the adverse party if: “(1) specific facts in an 9 affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage 10 will result to the movant before the adverse party can be heard in opposition; and (2) the movant’s 11 attorney certifies in writing any efforts made to give notice and the reasons why it should not be 12 required.” FED. R. CIV. P. 65(b)(l). 13 Here, Victor fails to satisfy the notice requirement. On February 8, 2023, Victor affirmed that 14 “she has not served the Defendants, each of them, pursuant to Federal Rule 65(a).” ECF No. 18 15 (“Notice of Non-Service to All Named Defendants”). As such, Victor must present either an 16 affidavit or a verified complaint clearly showing that immediate and irreparable injury, loss, or 17 damage will result despite the Defendants’ lack of notice. FED. R. CIV. P. 65(b)(l). 18 While Victor does provide a verified complaint, see generally *Compl.*, she does not clearly 19 show that immediate and irreparable injury, loss, or damage is imminent. As the Supreme Court 20 notes, “[p]ast exposure to illegal conduct does not in itself show a present case or controversy 21 regarding injunctive relief . . . if unaccompanied by any continuing, present adverse effects.” *City of 22 Los Angeles v. Lyons*, 461 U.S. 95, 95–96 (1983). Here, many of the injuries Victor alleges occurred 23 in the past and are

unaccompanied by continuing and present threats. See Compl. ¶ 51 (“Ms. Victor 24 is informed and believes that the Defendants have sexually assaulted, sexually battered, abused, 25 harassed, discriminated against, and retaliated against multiple victims, such as Ms. Victor.”); ¶ 211 26 (“The Defendants and their co-conspirators had doctored fraudulent paperwork in [Victor’s] 27 employee file.”); ¶ 1087 (“Defendants failed to take all, or any reasonable steps necessary to prevent 28 a work environment free of discrimination and harassment.”). Indeed, many of Victor’s causes of 3 Case 2:23-cv-00690-MEMF-PD Document 23 Filed 03/10/23 Page 4 of 6 Page ID #:813 1 action arise from events that allegedly took place during her employment with Defendants Wally’s 2 Auction House, LLC and Southwest Wine & Spirits, LLC. See Emergency Motion at 12 (“Ms. 3 Victor, during her employment, was subjected to extreme racism, battery, assault, sexual harassment, 4 discrimination, unpaid wages, retaliation, amongst other things.”); see generally Compl. (alleging 5 several causes of action for Defendants’ failure to pay wages). However, Victor alleges that she was 6 wrongfully terminated on June 14, 2019. Mot. at 12. Thus, as alleged, there is no risk of immediate 7 or irreparable injury because Victor no longer works for or with the Defendants. 8 Absent allegations that go to a continuing and present risk of injury or loss, Victor cannot 9 prevail on her TRO Motion without providing Defendants notice. See *Granny Goose Foods, Inc.*, 10 415 U.S. at 438-39 (“The stringent restrictions imposed by [Rule 65] on the availability of ex parte 11 temporary restraining orders reflect the fact that our entire jurisprudence runs counter to the notion 12 of court action taken before reasonable notice and an opportunity to be heard has been granted both 13 sides of a dispute.”). Accordingly, Victor’s TRO Motion is DENIED. The Emergency Motion is 14 DENIED for the same reasons.1 15 B. Improper Request for Relief 16 A plaintiff seeking a TRO must demonstrate “that remedies available at law, such as 17 monetary damages, are inadequate to compensate for th[eir] injury.” *eBay Inc. v. MercExchange*, 18 L.L.C., 547 U.S. 388, 391 (2006). The Supreme Court has repeatedly held that “the basis for 19 injunctive relief in the federal courts has always been irreparable injury and the inadequacy of legal 20 remedies.” *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312 (1982). “Irreparable harm is 21 traditionally defined as harm for which there is no adequate legal remedy, such as an award of 22 damages.” *Arizona Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1068 (9th Cir. 2014). 23 In the employment context, discharge and its associated consequences do not ordinarily 24 constitute irreparable harm, no matter how “severely they may affect a particular individual.” 25 26 1 This Court construes the Emergency Motion as also seeking a TRO. To the extent that the Emergency 27 Motion is more properly construed as seeking a preliminary injunction, it fails for lack of notice. As discussed, a preliminary injunction cannot be granted without notice, and Victor has affirmed that she has not 28 provided notice. Notice of Non-Service to All Named Defendants. 4 Case 2:23-cv-00690-MEMF-PD Document 23 Filed 03/10/23 Page 5 of 6 Page ID #:814 1 *Sampson v. Murray*, 415 U.S. 61, 92 n.68 (1974). This is because “[m]ere injuries, however 2 substantial, in terms of money, time and energy . . . are not enough. The possibility that adequate 3 compensatory or other corrective relief will be available at a later date,

in the ordinary course of litigation, weighs heavily against a claim of irreparable harm.” Id. at 90 (footnote and internal quotation marks omitted). Here, the remedies Victor seeks are inappropriate for decision on a TRO. Specifically, Victor requests over three million dollars in damages for a variety of alleged wage and labor discrimination violations. See Emergency Motion at 49–58. As the Supreme Court notes, damages for alleged violations in the employment context are available to Victor in the ordinary course of litigation. Sampson, 415 U.S. at 90. They are not, however, the type of irreparable damages necessary to warrant the “extraordinary remedy” of a TRO. Winter, 555 U.S. at 24. Put differently, Victor is not foreclosed from pursuing her claims against Defendants. Rather, Victor fails to demonstrate to the Court why the damages she seeks would be unavailable or insufficient were the TRO was denied. As such, her TRO Motion is DENIED. The Emergency Motion is DENIED for the same reasons.²

RESOURCES FOR SELF-REPRESENTED PARTIES

Although Victor is proceeding pro se, i.e., without legal representation, she nonetheless is required to comply with Court orders, the Local Rules, and the Federal Rules of Civil Procedure. See C.D. Cal. L.R. 83-2.2.3. The Local Rules are available on the Court’s website, <http://www.cacd.uscourts.gov/court-procedures/local-rules>. The Court cannot provide legal advice to any party, including pro se litigants, i.e., parties who are not represented by a lawyer. There is a free “Pro Se Clinic” that can provide information and guidance about many aspects of civil litigation in this Court. • Public Counsel runs a free Federal Pro Se Clinic where pro se litigants can get information and guidance. The Clinic is located at the Roybal Federal Building and Courthouse, 255 East Temple Street, Los Angeles, CA 90012 (note that the clinic may 2 As discussed above, the Emergency Motion is properly construed as seeking a TRO or a preliminary injunction. The same requirements for relief would apply, and Victor has failed to meet them. 5 Case 2:23-cv-00690-MEMF-PD Document 23 Filed 03/10/23 Page 6 of 6 Page ID #:815 1 not be open for in-person appointments during the pandemic). Pro se litigants must call 2 or submit an on-line application to request services as follows: on-line applications can 3 be submitted at <http://prose.cacd.uscourts.gov/los-angeles>, or call (213) 385-2977, ext. 4 270. 5 • Public Counsel also has extensive resources for pro se litigants at its website located at 6 <https://publiccounsel.org/services/federal-court/>. 7 • The Court is also informed that the LA Law Library, located across the street from the 8 First Street Courthouse at 301 W. First Street, Los Angeles, CA 90012, also has extensive 9 resources for pro se litigants. The LA Law Library can be reached via email at reference@lalawlibrary.org, or via telephone at (213) 785-2513.

CONCLUSION

For the reasons stated above, the Court DENIES Victor’s Motion for a TRO and her Emergency Motion. IT IS SO ORDERED. 15 16 Dated: March 10, 2023

17 MAAME EWUSI-MENSAH FRIMPONG

18 United States District Judge 19 20 21 22 23 24 25 26 27 28 6

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