

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 17-07343-SJO (GJSx) Date October 6, 2017

Title *Khristine Elaine Eroshevich, M.D. v. George P. Parisotto, et al.*

Present: The Honorable GEORGE H. WU, UNITED STATES DISTRICT JUDGE

V.R. Vallery for Javier Gonzalez

None Present

Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

None Present

None Present

Proceedings: (IN CHAMBERS) ORDER DENYING PLAINTIFF'S APPLICATION FOR TEMPORARY RESTRAINING ORDER [6]

Plaintiff has today filed an "as applied" challenge to the constitutionality of California Labor Code § 139.21. *See* Docket No. 1. Plaintiff is afraid that she will be permanently suspended from participating in the California workers' compensation system pursuant to Section 139.21 as a result of a prior criminal conviction. *Id.* at ¶ 19. Plaintiff requested a hearing before the relevant state administrative body which was granted and is now scheduled for October 10, 2017. *Id.* at ¶¶ 20-21.

Concomitantly with her Complaint, Plaintiff filed an ex parte application for a temporary restraining order ("TRO") primarily seeking: (1) an order from this Court enjoining the scheduled suspension hearing from going forward on October 10, 2017, and (2) a hearing date for her request for a preliminary injunction. *See* Proposed Order, Docket No. 6-7; *see generally* Docket No. 6. Plaintiff's application for TRO injunctive relief is DENIED.

Plaintiff's application asks this federal district court to enjoin an ongoing state administrative proceeding, which raises serious abstention concerns. *See generally* *Ohio Civil Rights Comm'n v. Dayton Christian Schools, Inc.*, 477 U.S. 619, 627 (1986).

Additionally, Plaintiff has failed to demonstrate likely irreparable harm at this juncture which would warrant any injunctive relief. *See* *Winter v. Nat. Res. Defense Council, Inc.*, 555 U.S. 7, 22 (2008). To begin, Plaintiff herself asked for the very hearing which she now seeks to stay. Secondly, because the hearing has not been conducted, one cannot make a determination as to whether she will prevail or lose. Obviously, if the former occurs, there is no need for any federal court judicial intervention. If the latter occurs, there can be an appeal of that result and/or the administrative body will articulate reasons for its decision which can affect any further proceedings. While Plaintiff argues that if she is not successful at the hearing and she is suspended, there is no provision in Section 139.21 for reinstatement, modification or rescission of suspension. *See* Application for TRO at 2. However, Plaintiff has not established that any adverse decision at the October 10, 2017 hearing would not be subject to subsequent and fair administrative and/or state court review. Thus, the Court is not satisfied that she is facing some form of irreparable harm.

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For the above reasons, Plaintiff's application for TRO injunctive relief is DENIED. The Court will set a status conference for October 12, 2017, at 8:30 a.m. to discuss further proceedings in this action.

Initials of Preparer	_____ : _____ VRV _____
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