

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES -- GENERAL

Case No. **CV 09-8521-VBF(RZx)**

Dated: **December 10, 2009**

Title: Joseph R. Francis -v- United States of America

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PRESENT: HONORABLE VALERIE BAKER FAIRBANK, UNITED STATES DISTRICT JUDGE

Rita Sanchez  
Courtroom Deputy

Rosalyn Adams  
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS:

ATTORNEYS PRESENT FOR DEFENDANTS:

Cori E. Flanders-Palmer  
Mark Hathaway

Darwin Thomas  
Valerie L. Makarewicz

**PROCEEDINGS: OSC RE PRELIMINARY INJUNCTION**

Case called, and counsel make their appearance.

As reflected in the reporter's notes, the Court informs counsel that the Court has received, read, and considered Plaintiff's Supplemental Memorandum in Support of Injunction, filed November 30, 2009 (dkt. #20), Defendant's Response to Plaintiff's Supplemental Memorandum, filed December 4, 2009 (dkt. #22), Plaintiff's Reply, filed December 8, 2009 (dkt. #25), and the corresponding exhibits. The Court states that it has also considered Plaintiff's Complaint (dkt. #1), Plaintiff's Ex Parte Application for TRO and OSC Re Preliminary Injunction (dkt. #3), Defendant's Answer and Opposition to the TRO (dkt. #11), and the corresponding exhibits. The Court hears oral argument and takes the matter under submission.

**Later**, in chambers, after further consideration of the papers filed and counsel's oral argument, the

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Court DENIES the Plaintiff's application for a Preliminary Injunction. The Anti-Injunction Act, 26 U.S.C. § 7421, is applicable to this case. Plaintiff has not shown that he is likely to suffer irreparable harm in the absence of preliminary relief. Because a likelihood of irreparable harm is required for both the statutory and judicial exceptions to the Anti-Injunction Act, Plaintiff is barred from seeking relief in this proceeding. See *Enochs v. Williams Packing & Navigation, Inc.*, 370 U.S. 1, 7 (1962); *Cool Fuel, Inc. v. Connett*, 685 F.2d 309, 313 (9th Cir. 1982). Plaintiff's claims of irreparable injury are conclusory and inadequate. Further, the Plaintiff has an adequate remedy at law. See, e.g., 26 U.S.C. § 7429; *Al-Kim, Inc. v. United States*, 650 F.2d 944, 948 (9th Cir. 1979); *Cool Fuel*, 685 F.2d at 314.

This Minute Order serves as the Findings of Fact and Conclusions of Law required under Federal Rule of Civil Procedure 52(a)(2).

Because the Court finds that the Anti-Injunction Act applies, the Court arguably lacks subject matter jurisdiction for this action. See 26 U.S.C. § 7421(a); *J.L. Enochs v. Williams Packing & Navigation Co.*, 370 U.S. 1, 7 (1962); *Elias v. W.H. Connett*, 908 F.2d 521 (9th Cir. 1990). Accordingly, the Court sets an OSC re Subject Matter Jurisdiction for December 21, 2009, in conjunction with the Scheduling Conference for this matter. Briefing in response to the OSC shall be filed and served by December 16, 2009, and limited to 5 pages.

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