

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SACRAMENTO
GORDON D SCHABER COURTHOUSE**

MINUTE ORDER

DATE: 10/17/2012

TIME: 02:00:00 PM

DEPT: 53

TEMPORARY JUDGE: Rudolph Loncke

CLERK: E. Brown

REPORTER/ERM: S. Adams CSR# 12554

BAILIFF/COURT ATTENDANT: C. Chambers

CASE NO: **34-2012-00130439-CU-MC-GDS** CASE INIT.DATE: 10/01/2012

CASE TITLE: **The National Grange of the Order of Patrons of Husbandry vs. The California State Grange**

CASE CATEGORY: Civil - Unlimited

EVENT TYPE: Motion for Preliminary Injunction

APPEARANCES

Martin Jensen, counsel, present for Plaintiff(s).

William A Lapcevic, counsel, present for Defendant(s).

Robert D Swanson, counsel, present for Defendant,Plaintiff(s).

Dan Stouder, counsel present for defendant

Nature of Proceeding: Motion for Preliminary Injunction

TENTATIVE RULING

Plaintiff The National Grange Request for Preliminary Injunction against Defendant California State Grange, and its Executive Committee is DENIED.

Plaintiff requests that this Court enjoin Defendants Robert McFarland, John Luvaas, Gerald Chernoff, and Damian Parr, and California State Grange, as well as its employees and agents from executing any contracts or undertaking any official actions at or from the direction of the California State Grange Executive Committee, and requests an order that the California State Grange's Executive Committee to turn over keys, building and computer passwords, and all other information necessary for The National Grange to operate the California State Grange during the pendency of this action.

Trial courts should evaluate two interrelated factors when deciding whether or not to issue a preliminary injunction. The first is the likelihood that the plaintiff will prevail on the merits at trial. The second is the interim harm that the plaintiff is likely to sustain if the injunction were denied as compared to the harm that the defendant is likely to suffer if the preliminary injunction were issued. *Cohen v. Cohen v. Board of Supervisors* (1985) 40 Cal. 3d 277, 286.

Facts

Moving party plaintiff National Grange declines to specify the offense committed by the President of the California Grange, however the complaint alleges that effective August 6, 2012, the President of the California Grange, McFarland was suspended by the Master of The National Grange, pending a new set of duly filed charges to be adjudicated in The National Grange. McFarland refused to accept the suspension and purported to remain acting Master of the California State Grange despite the provision

that Masters of the State Granges are answerable to the Master of The National Grange.

Instead of complying with National Grange's order of suspension, the Executive Committee of the California Grange met in Sept 2012, hiring counsel to represent the California Grange opposing the authority of the National Grange.

On September 17, 2012, Edward L. Luttrell, Master of The National Grange, with the approval of the Executive Committee of The National Grange, formally suspended the Charter of the California State Grange on the basis that the California State Grange was working in violation of the law and usages of the Order of The National Grange and that the suspension was for the good of the Order.

Likelihood That The Plaintiff Will Prevail On The Merits

Plaintiff has failed to demonstrate that it will prevail on the merits. This appears to be a contract dispute between the National Grange and the California Grange.

The California Grange has operated since shortly after the Civil War. It is a California non-profit, mutual benefit corporation in good standing with the State of California.

Plaintiff seeks to seize the assets, terminate the President, and take complete control of the California Grange from its Executive Committee and deliver them to an out of state entity, not qualified to do business in California.

Irreparable injury

The purpose of a preliminary injunction is to maintain the status quo.

National Grange contends that the California State Grange and its Executive Committee have demonstrated that it can disregard the laws and proper procedures of the organization, and the irreparable injury which plaintiff will suffer if the injunction is not granted is the California Grange's Executive Committee entering into legal contracts with third persons, unaware that the California State Grange has been suspended. The sole injury to plaintiff is an asserted breach of the organization's governing documents, by unspecified acts of McFarland.

Despite the denial of a TRO, the National Grange has contacted members of the California Grange to tell them to stay away from the annual meeting of the California Grange, scheduled for October 2012. The National Grange threatened to seize the assets of the local Grange chapters, including the Grange Halls. California members have been instructed to hold all proceeds from auctions and fund raising events at the annual meeting to be turned over to the National Grange.

Plaintiff seeks to restrain McFarland from acting in his capacity of President, despite the vote of the California Executive Committee to the contrary, and to prevent him from communicating with his membership.

Here, opposing party asserts that it collects California Grange's dues on a quarterly basis. As of the filing of the opposition papers, the dues for California have been paid current to the National Grange.

The California Grange has a full time staff of employees, who need to be paid. This injunction would enjoin not only McFarland, but all of the employees from performing their regular duties, causing their constructive discharge.

The Court finds, on the record before it, that the balance of the injuries favors the denial of the requested

preliminary injunction, pending trial on the merits.

This minute order is effective immediately. No formal order nor further notice is required, the tentative ruling providing sufficient notice.

COURT RULING

The matter was argued and submitted. The Court affirmed the tentative ruling.