No. 25-5754

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

PEOPLE OF THE STATE OF CALIFORNIA, et al.,

Plaintiffs-Appellees,

v.

CHIQUITA CANYON, LLC, et al.,

Defendants-Appellants.

Appeal from the United States District Court
for the Central District of California
No. 2:24-cv-10819-MEMF-MAR
Hon. Maame Ewusi-Mensah Frimpong

THE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA'S MOTION TO FILE *AMICUS CURIAE* BRIEF IN SUPPORT OF APPELLANTS AND REVERSAL

Andrew R. Varcoe
Christopher Walker
U.S. Chamber Litigation Center
1615 H Street NW
Washington, DC 20062
(202) 463-5337

Varu Chilakamarri
Spencer McCandless
K&L Gates LLP
1601 K Street NW
Washington, DC 20006
(202) 778-9000
varu.chilakamarri@klgates.com

Counsel for Amicus Curiae the
Chamber of Commerce of the United States of America

CORPORATE DISCLOSURE STATEMENT

The Chamber of Commerce of the United States of America is a non-profit, tax-exempt organization incorporated in the District of Columbia. The Chamber has no parent corporation, and no publicly held company has 10% or greater ownership in the Chamber.

October 16, 2025

/s/ Varu Chilakamarri
Varu Chilakamarri

Counsel for Amicus Curiae

MOTION FOR LEAVE TO FILE BRIEF AS *AMICUS CURIAE* IN SUPPORT OF APPELLANT AND REVERSAL

Pursuant to Federal Rule of Appellate Procedure 29(a)(3) and Circuit Rule 29-3, the Chamber of Commerce of the United States of America ("Chamber") moves for leave to file the attached *amicus curiae* brief in support of the appellants and reversal. All parties were provided with timely notice of the Chamber's intent to file. The Chamber endeavored to obtain the consent of all parties to the filing of the brief before moving the Court for permission. Appellants consented to this filing. Appellees withheld consent.

The Chamber is the world's largest business federation. It represents approximately 300,000 direct members and indirectly represents the interests of more than three million companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. To that end, the Chamber regularly files *amicus curiae* briefs in cases, like this one, that raise issues of concern to the nation's business community.

The Chamber's members provide a variety of beneficial goods and services in their communities and beyond, often operating in highly regulated sectors. In the Chamber's experience, businesses strive to maintain constructive relationships with local communities and with the public generally, often leading to early and

productive resolutions of any disputes. But when more difficult conflicts arise, the Chamber's members rely on predictable and orderly legal proceedings, where questions of liability and remedies are resolved through fair and established procedures. The Chamber has a strong interest in ensuring that federal courts afford businesses the basic procedural protections that they are entitled to under the law.

That interest is implicated in this case, because the district court improperly bypassed those procedural protections. The district court's order requires the early payment of monetary relief, even though such relief is not equitable in nature and may not be provided via a preliminary injunction. The order is also premature; the district court entered injunctive relief while making clear that key requirements for a preliminary injunction had not been satisfied.

The Chamber's brief is desirable and relevant to the disposition of this case because it sets forth the Chamber's views, informed by the experiences of the U.S. business community, as to why the district court's preliminary injunction is unlawful and should be reversed. It provides arguments and perspectives not found in the parties' briefs, which may be beneficial to the Court as it considers this appeal.

No counsel for any party in this litigation authored the Chamber's brief in whole or in part, and no entity or person, aside from *amicus curiae*, its members, or its counsel, made any monetary contribution intended to fund the preparation or submission of the brief. Fed. R. App. P. 29(a)(4)(E).

For the foregoing reasons, the motion should be granted.

October 16, 2025

Respectfully submitted,

/s/ Varu Chilakamarri

Andrew R. Varcoe
Christopher Walker
U.S. Chamber Litigation Center
1615 H Street NW
Washington, DC 20062
(202) 463-5337

Varu Chilakamarri
Spencer McCandless
K&L Gates LLP
1601 K Street NW
Washington, DC 20006
(202) 778-9000
varu.chilakamarri@klgates.com

Counsel for Movant the Chamber of Commerce of the United States of America

CERTIFICATE OF COMPLIANCE

The undersigned counsel certifies that this motion: (i) complies with the typeface requirements of Rule 32(a)(5) and the type style requirements of Rule 32(a)(6) because it has been prepared using Microsoft Office for Microsoft 365 and is set in Times New Roman font in a size equivalent to 14 points or larger, and (ii) complies with the length requirement of Rule 27(d)(2) because it contains 473 words.

Dated: October 16, 2025

/s/ Varu Chilakamarri
Varu Chilakamarri

CERTIFICATE OF SERVICE

I hereby certify that, on October 16, 2025, I electronically filed the foregoing with the Clerk of the Court for the U.S. Court of Appeals for the Ninth Circuit using the appellate CM/ECF system and served copies of the foregoing via the Court's CM/ECF system on all ECF-registered counsel.

/s/ Varu Chilakamarri
Varu Chilakamarri

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Andrew R. Varcoe
Christopher Walker
U.S. Chamber Litigation Center
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October 16, 2025

/s/ Varu Chilakamarri
Varu Chilakamarri
Counsel for Amicus Curiae

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes and Rules

Other Authorities

IDENTITY AND INTEREST OF AMICUS CURIAE[1]

The Chamber of Commerce of the United States of America (the "Chamber") is the world's largest business federation. It represents approximately 300,000 direct members and indirectly represents the interests of more than three million companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. To that end, the Chamber regularly files amicus curiae briefs in cases, like this one, that raise issues of concern to the nation's business community.

The Chamber's members provide a variety of beneficial goods and services in their communities and beyond, often operating in highly regulated sectors. In the Chamber's experience, businesses strive to maintain constructive relationships with local communities and with the public generally, often leading to early and productive resolutions of any disputes. But when more difficult conflicts arise, the Chamber's members rely on predictable and orderly legal proceedings, where questions of liability and remedies are resolved through fair and established procedures. The Chamber has a strong interest in ensuring that federal courts afford

[1] No counsel for any party authored this brief in whole or in part, and no entity or person, aside from amicus curiae, its members, or its counsel, made any monetary contribution intended to fund the preparation or submission of this brief.

businesses the basic procedural protections that they are entitled to under the law. In this case, the district court bypassed those protections.

This brief focuses on two problems raised by the order under review. First, the order requires the early payment of monetary relief, even though such relief is not equitable in nature and may not be provided via a preliminary injunction. Second, the order is premature; the district court entered injunctive relief while making clear that key requirements for a preliminary injunction had not yet been satisfied. Each of these defects is an independent basis for reversing the court's order.

PRELIMINARY STATEMENT

A preliminary injunction is an extraordinary and drastic remedy that should be granted only when there is an urgent need, and only to preserve the subject of the controversy until the court can conduct a full inquiry into the matter. *Winter v. Natural Resources Defense Council*, 555 U.S. 7, 24 (2008); *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997). And because a "preliminary injunction, of course, is *not a preliminary adjudication* on the merits but rather a device for preserving the status quo," the authority of federal courts to award such relief is limited. *Sierra On-Line, Inc. v. Phoenix Software, Inc.*, 739 F.2d 1415, 1422 (9th Cir. 1984) (emphasis added). The district court issued an unusual preliminary injunction here that exceeds the bounds of that limited authority.

In this case, the preliminary injunction required the private-sector defendants (collectively "Chiquita") to pay a government entity to provide monetary assistance for temporary relocation and/or home-hardening measures to residents who claim harm attributed to odors from the Chiquita Canyon Landfill. Even though there is a parallel and ongoing tort suit brought by the residents, this injunction was ordered in response to a motion brought by Los Angeles County, which is seeking, through various means, to address these nuisance complaints.

The preliminary injunction issued against Chiquita is troubling because of the remedy it provides and the manner of its issuance—both of which are at odds with the Federal Rules of Civil Procedure and binding precedent.

First, the district court exceeded its authority by granting monetary relief. The courts' power to grant a preliminary injunction is limited to the remedies that were traditionally available in historic courts of equity, and compensatory monetary relief was not among those remedies. In the modern era, this prohibition on monetary relief underscores the narrow purpose of the preliminary injunction—to preserve the status quo and prevent irreparable loss while enabling the court, after comprehensive review of the case, to render a final decision that affords complete relief. The purpose of a preliminary injunction, however, is not to afford final relief. But the district court's order requiring Chiquita to establish an "abatement fund" does just that.

As the district court put it, the County filed suit demanding in part that Chiquita "subsidize the relocation of citizens" and "subsidize the remedial measures" that citizens may take. 1-ER-5. Such relief may be recoverable from Chiquita at the end of the case, if the County ultimately prevails on its claims. That ultimate relief is precisely what Chiquita has now been ordered to provide as a preliminary matter, and before the company's liability has been fully adjudicated.

Second, the district court employed a multi-step preliminary injunction process that is contrary to the plain text of Federal Rule of Civil Procedure 65. That rule unambiguously requires every order granting an injunction to contain all relevant terms within its four corners, including by specifically defining the conduct that the injunction prohibits or requires. This requirement not only ensures fairness and notice to the parties, it guarantees that the court is performing the correct inquiry. After all, a court cannot properly decide whether to issue a preliminary injunction without assessing the specific remedy requested in light of the balance of equities at issue. By concluding that an "abatement fund" is required without determining which specific parties would be injured and how (or, for that matter, the size of the fund), the court created a bifurcated process that made it impossible to weigh the equities. The court inappropriately relieved the movant of its burden to show that it was entitled to the preliminary injunctive relief that the movant had requested.

This Court should reverse the district court's order.

ARGUMENT

I. An "abatement fund" is not a permissible form of preliminary relief.

The district court granted the County's motion for a preliminary injunction, requiring Chiquita to establish a monetary "abatement fund." Monetary compensation cannot be granted through a preliminary injunction. Regardless of the district court's efforts to frame its order as an equitable remedy, the abatement fund here violates this basic limitation on preliminary relief.

A. A preliminary injunction is not a proper mechanism for awarding monetary relief.

1. Monetary relief is inconsistent with historical principles of equity.

"Federal Rule of Civil Procedure 65 provides the general procedure for obtaining a preliminary injunction." *F.D.I.C. v. Garner*, 125 F.3d 1272, 1276–77 (9th Cir. 1997). But "the substantive prerequisites for obtaining an equitable remedy as well as the general availability of injunctive relief are not altered by Rule 65 and depend on traditional principles of equity jurisdiction." *Grupo Mexicano de Desarrollo S.A. v. All. Bond Fund, Inc.*, 527 U.S. 308, 318-19 (1999) (quoting 11A Charles Alan Wright, Arthur R. Miller, & Mary Kay Kane, Federal Practice and Procedure § 2941, p. 31 (2d ed. 1995)) (brackets omitted). Courts accordingly must exercise their authority to issue the "'extraordinary' [] remedy" of preliminary injunctions "in a manner consistent with traditional principles of equity." *Starbucks Corp. v. McKinney*, 602 U.S. 339, 345 (2024) (quoting *Winter*, 555 U.S. at 24). This

means that federal courts may order a remedy by preliminary injunction only if it is a type of relief that "was traditionally accorded by courts of equity." *Grupo Mexicano*, 527 U.S. at 319.

This basic requirement prohibits courts from awarding monetary relief through a preliminary injunction, as "[m]oney damages are, of course, the classic form of *legal* relief" and not an equitable remedy. *Mertens v. Hewitt Associates*, 508 U.S. 248, 255 (1993) (emphasis in original). Suits for money damages fell outside the jurisdiction of historic courts of equity, as "the like amount c[ould] be recovered at law," *Granfinanciera, S.A. v. Nordberg*, 492 U.S. 33, 48 (1989) (quoting *Buzard v. Houston*, 119 U.S. 347, 352 (1886)), and "a court of equity w[ould] not entertain a case for relief where the complainant ha[d] an adequate legal remedy." *Case v. Beauregard*, 101 U.S. 688, 690 (1879). Because a monetary award was not available in courts of equity, it is not available in modern times by preliminary injunction.

2. Monetary relief is inconsistent with the purpose of a preliminary injunction.

The prohibition on granting a monetary award through a preliminary injunction makes sense given the underlying rationale for preliminary relief. "The purpose of a preliminary injunction is merely to preserve the relative positions of the parties until a trial on the merits can be held." *Univ. of Texas v. Camenisch*, 451 U.S. 390, 395 (1981). "The purpose … is not to give the plaintiff the ultimate relief it seeks," but rather "to keep the parties, while the suit goes on, as far as possible in

the respective positions they occupied when the suit began." *WarnerVision Entm't Inc. v. Empire of Carolina, Inc.*, 101 F.3d 259, 261–62 (2nd Cir. 1996) (citation modified). Preliminary injunctions are not intended to be "a vehicle" for "final relief on the merits," *Heckler v. Redbud Hosp. Dist.*, 473 U.S. 1308, 1314 (1985) (Rehnquist, C.J., in chambers); *see also Diversified Mortgage Inv'rs v. U.S. Life Ins. Co. of New York*, 544 F.2d 571, 576 (2d Cir. 1976) (collecting cases).

And for good reason. Our justice system depends on "the adversarial presentation of evidence, precedent and custom, and argument to reasoned conclusions—all directed with unwavering effort to what, in good faith, is believed to be true on matters material to the disposition." *United States v. Shaffer Equip. Co.*, 11 F.3d 450, 457 (4th Cir. 1993). But preliminary relief is "customarily granted on the basis of procedures that are less formal and evidence that is less complete than in a trial on the merits." *A.A.R.P. v. Trump*, 605 U.S. 91, 96 (2025) (quoting *Lackey v. Stinnie*, 145 S. Ct. 659, 667 (2025)). Because "[a] district judge asked to decide whether to grant or deny a preliminary injunction" is "forced to act on an incomplete record," "the danger of a mistake is substantial." *Am. Hosp. Supply Corp. v. Hosp. Products Ltd.*, 780 F.2d 589, 593 (7th Cir. 1986) (Posner, J.). Given this high potential for error, "mandatory injunctions" that force a defendant to affirmatively undertake some action that it may ultimately have had no obligation to perform are "particularly disfavored." *Anderson v. United States*, 612 F.2d 1112, 1114 (9th Cir.

1979) (quoting case); *see also Hanson v. D.C.*, 120 F.4th 223, 247 (D.C. Cir. 2024) ("Because a grant of preliminary relief could prove to be mistaken once the merits are finally decided, courts must be institutionally wary of granting relief that disrupts, rather than preserves, the status quo, especially when that relief cannot be undone if the non-movant ultimately wins on the merits.") (quoting case), *cert. denied*, 145 S. Ct. 2778 (2025).

Preliminary injunctions are thus reserved for cases where, unless an injunction is issued *now*, the movant will likely suffer a type of harm that cannot be rectified by the remedies available to a court at the end of the case when it is able to make a more reliably accurate conclusion. *See Lydo Enterprises, Inc. v. City of Las Vegas*, 745 F.2d 1211, 1213 (9th Cir. 1984) ("The possibility that adequate 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." (quoting *Sampson v. Murray*, 415 U.S. 61, 90 (1974))).

Monetary relief is inconsistent with these goals and limitations, as it does not merely preserve the status quo to provide a window in which the court can determine the final relief. In most instances, monetary relief "serve[s] to return the plaintiff to the position he or she would have occupied had the harm [that is the basis of the lawsuit] not occurred." *Schneider v. Cnty. of San Diego*, 285 F.3d 784, 795 (9th Cir. 2002). This inherently places the plaintiff in a different position than when it initiated

the suit. And where a *threatened* injury is "capable of compensation in damages" at the conclusion of the case, it is not irreparable and cannot form the basis of a preliminary injunction. *Anderson*, 612 F.2d at 1115 (quoting case); *see id.* at 1115-16 (same conclusion for both mandatory and prohibitory injunctions). Because such monetary relief can "be granted as easily at judgment as at a preliminary injunction hearing . . . a party does not normally suffer irreparable harm simply because it has to win a final judgment on the merits to obtain monetary relief." *Hughes Network Sys., Inc. v. InterDigital Commc'ns Corp.*, 17 F.3d 691, 694 (4th Cir. 1994).

Thus, an order directing a defendant to pay money to a plaintiff is inconsistent with the historical basis and purpose of preliminary relief. *See, e.g.*, *Goadby v. Philadelphia Elec. Co.*, 639 F.2d 117, 121 (3d Cir. 1981) ("We have explained that preliminary injunctive relief is not available when adequate monetary damages are available[.]"); *Los Angeles Mem'l Coliseum Comm'n v. Nat'l Football League*, 634 F.2d 1197, 1202 (9th Cir. 1980) (noting that it is "well established" that purely economic loss "is not normally considered irreparable," because such loss is compensable through a later award of monetary damages); *Braun v. Fed. Bureau of Investigation*, No. CV-14-73-BU-DWM-JCL, 2014 WL 12543849, at *1 (D. Mont. Nov. 13, 2014) ("A preliminary injunction is not the proper avenue for seeking monetary funds."); *Smith v. Municipality of Anchorage*, No. 3:23-CV-00257-SLG, 2025 WL 2097457, at *13 (D. Alaska July 24, 2025) (same); *Smith v. Hutchings*,

No. 222CV00759GMNBNW, 2022 WL 18394718, at *6 (D. Nev. July 28, 2022) (same); *AZ Holding, LLC v. Frederick*, No. CV-08-0276-PHX-LOA, 2009 WL 484881, at *2 (D. Ariz. Feb. 26, 2009) ("Where the court finds that monetary damages are appropriate, a preliminary injunction is not appropriate."); *Mukatin v. Hesseltine*, No. 105CV00324AWISMSP, 2005 WL 3150155, at *1 (E.D. Cal. Nov. 17, 2005) ("Money damages is a form of relief separate and distinct from equitable relief, and cannot be sought via a motion for preliminary injunctive relief."), *report and recommendation adopted*, 105CV00324AWISMSP, 2006 WL 354639 (E.D. Cal. Feb. 15, 2006).

B. The order establishing an abatement fund is an impermissible preliminary award of monetary relief.

The district court ruled that the establishment of the "abatement fund" is an equitable remedy—rather than an impermissible monetary remedy—because "the purpose of the fund is to pay for relocation and/or home-hardening," and "it will serve the same function that typical injunctive relief would serve." 1-ER-20 n.16. But this "same function" justification proves too much and would result in a significant and improper expansion of the courts' preliminary remedial authority.

Indeed, as demonstrated by the order here, an injunction-by-equivalence (1) blurs the important distinction between monetary and equitable relief that is critical to defining the scope of the court's injunctive power and (2) runs afoul of the limited purpose of that power by skipping ahead to final compensatory relief.

First, framing the order as an "abatement fund" does not change the fundamental character of the monetary award in this case. At bottom, the preliminary injunction will require Chiquita to pay money to the County, which the County will then give to the residents for their expenditures. This is monetary compensation—indeed, it is compensation one step removed from the actual parties who are claimed to need it. That the abatement fund would be used to pay for home hardening and/or relocation expenses does not convert a monetary award into an equitable one. On the contrary, it is blackletter law "that reasonable expenses incurred in a proper effort to mitigate damages may be recovered" through an award of monetary damages at the conclusion of the lawsuit. *United States v. Sutro*, 235 F.2d 499, 502 (9th Cir. 1956).

The County expressly recognized that the measures the fund is intended to pay for are designed to "mitigate the impact" of Chiquita's allegedly wrongful conduct. 10-ER-2293. What the district court characterized as equitable relief is therefore more appropriately deemed a prospective compensatory award of the economic costs that the County (and the residents it seeks to assist) is predicted to incur on mitigation. It is "well established" that purely economic loss "is not normally considered irreparable," because it is compensable through a later award of monetary damages. *Los Angeles Mem'l Coliseum Comm'n*, 634 F.2d at 1202.[2]

[2] The district court suggested that if the rule that injuries that can be prevented through a monetary award are not irreparable "were to be accepted, a party would never be able to demonstrate irreparable harm unless the party (or a governmental

Indeed, a plaintiff's costs to mitigate damages from a defendant's wrongful conduct is one of the classic elements of a final damages award, which is indisputably legal, non-equitable relief. *See, e.g., Shaw v. United States*, 741 F.2d 1202, 1205 (9th Cir. 1984) (noting an award of future medical expenses associated with treating injuries caused by the defendant are compensatory damages); *Tellock v. Davis*, 84 F. App'x 109, 112 (2d Cir. 2003) (holding that injury from wrongful eviction could be "compensated by money damages, which would include the price of increased rent plus moving expenses").[3]

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entity) took abatement into their own hands, even where the party may not have caused the harm in the first instance." 1-ER-17. This misunderstands the basic principle. If an injury can be prevented through an expenditure of money that can later be recovered, it is not irreparable regardless of whether the threatened party has already spent the money to prevent it. A mandatory injunction may be granted only when the movant *lacks* the ability to prevent the threatened injury and "extreme or very serious damage will result" if the non-movant does not act. *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 879 (9th Cir. 2009). And even when that requirement is met, the injunction must direct some action on the part of the non-movant to prevent the harm, not simply award money to the movant. *See Jaffee v. United States*, 592 F.2d 712, 715 (3d Cir. 1979) ("A plaintiff cannot transform a claim for damages into an equitable action by asking for an injunction that orders the payment of money.").

[3] That the County seeks this relief during the pendency of the case rather than at the end does not transform it into an equitable remedy. *See Great-W. Life & Annuity Ins. Co. v. Knudson*, 534 U.S. 204, 210 (2002) ("Almost invariably . . . suits seeking (whether by judgment, injunction, or declaration) to compel the defendant to pay a sum of money to the plaintiff are suits for 'money damages,' as that phrase has traditionally been applied, since they seek no more than compensation for loss resulting from the defendant's breach of legal duty."); *Jaffee*, 592 F.2d at 715.

Second, the establishment of an abatement fund in this case is at odds with the narrow purposes of preliminary relief, as it awards a partial final remedy to the plaintiff, while visiting a permanent monetary loss on the defendant. The County brought this action on behalf of the People of the State of California, requesting the creation of the "abatement fund" as a final remedy to redress the plaintiffs' claimed injuries. *See* 10-ER-2314, 2357; 10-ER-1091.[4] The district court thus granted the County, through a preliminary injunction, one of the ultimate remedies it seeks in the litigation: Chiquita's establishment of a fund that will be distributed to and then spent by unidentified third parties, ensuring the money can never be recovered. Granting final monetary relief is not a valid exercise of the preliminary injunction power. *See supra* at 8-9.

Below, the County relied exclusively on *People v. ConAgra Grocery Products Co.*, 17 Cal. App. 5th 51, 132 (Cal. Ct. App. 2017), to argue that its requested remedy was appropriate equitable relief. To the extent that *ConAgra* has a bearing on federal-court cases applying Rule 65, the decision is simply inapposite: In *ConAgra*, the

[4] In fact, the abatement fund *must* be aimed at addressing the plaintiffs' injuries because preliminary injunctions must be narrowly tailored to address the threatened harm *to the plaintiff*, and an order truly intended for the benefit of only nonparties would be invalid for that reason alone. *Zepeda v. INS*, 753 F.2d 719, 728 n.1 (9th Cir. 1983).

abatement was ordered as a *final* remedy following a trial on the merits. *ConAgra*, Cal. App. 5th at 122.

To sum up: The abatement fund mandated by the district court's injunction order is fundamentally a prospective award of compensatory monetary damages and thus is not a proper form of preliminary relief. Any such compensatory relief should be reserved for final judgment. The County is free at this time to provide monetary assistance to the residents, who have brought their own separate tort suit against Chiquita, and then to try to seek recoupment at the end of this litigation. But the County may not obtain an injunction that provides these monies up front.

II. The district court employed an invalid procedure in granting the preliminary injunction.

Under Federal Rule of Civil Procedure 65(d)(1) and decisions such as *Winter v. Natural Resources Defense Council*, a district court may not issue a preliminary injunction without first fixing its boundaries, including by tailoring any relief to address the identified irreparable harm and competing equities. This process cannot be deployed in a piecemeal fashion, because the determination of a remedy is inextricably linked to the harm and equities a court must identify when determining whether an injunction should issue.

By granting an injunction that will definitively require Chiquita to pay *some* amount of money into an abatement fund while also acknowledging that the County had not demonstrated the precise contours of the harms and equities, the district court

employed an approach that defies the plain language of Rule 65 and improperly relaxes the County's burden of proof.

A. The district court's injunction runs afoul of Rule 65.

Rule 65(d) sets forth the requirements with which "[e]very order granting an injunction" must comply. Fed. R. Civ. P. 65(d). It provides that an order granting an injunction "must . . . state the reasons why it issued;" "state its terms specifically;" and "describe in reasonable detail—and not by referring to the complaint or other document—the act or acts restrained or required." *Id.* The "specificity provisions of Rule 65(d) are no mere technical requirements." *Schmidt v. Lessard*, 414 U.S. 473, 476 (1974); *see also Del Webb Cmtys., Inc. v. Partington,* 652 F.3d 1145, 1150 n.3 (9th Cir. 2011) (collecting Ninth Circuit cases). Thus, the "language of Rule 65 is exacting," *Reno Air Racing Ass'n v. McCord,* 452 F.3d 1126, 1132 (9th Cir. 2006), and its text is explicit that "[*e*]*very* order" that grants an injunction "must" include each of the specified components. Fed. R. Civ. P 65(d)(1) (emphasis added). This requirement serves multiple purposes, including to "prevent uncertainty and confusion on the part of those faced with injunctive orders," "ensure basic fairness," and allow "an appellate tribunal to know precisely what it is reviewing." *Schmidt*, 414 U.S. at 476-77.

It necessarily follows that Rule 65(d) does not permit a court to first grant an injunction and then later determine its specific terms. *See Gates v. Shinn*, 98 F.3d

463, 468 (9th Cir. 1996) (noting the meaning of an injunction must be found "within its four corners" (quoting *Rufo v. Inmates of Suffolk Cty. Jail*, 502 U.S. 367, 378 (1992))). As further explained below, a court may not issue an injunction without delineating the specific relief being granted.[5]

B. The district court improperly relaxed the County's burden to make a clear showing of the prerequisites for injunctive relief.

A "preliminary injunction is an extraordinary and drastic remedy, one that should not be granted unless the movant, *by a clear showing*, carries the burden of persuasion." *Mazurek*, 520 U.S. at 972 (emphasis in original) (quoting Wright, Miller, & Kane, Federal Practice and Procedure § 2948 (2d ed. 1995)); *see also Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Local No. 70*, 415 U.S. 423, 443 (1974). Among other things, the movant must show that it is likely to suffer irreparable harm in the absence of preliminary relief and that the balance of equities tip in its favor. *Winter*, 555 U.S. at 20.

The required showing of harm and the balance of equities under *Winter* cannot be divorced from the findings relating to the injunction's necessity and scope, as each affects the other. *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312 (1982) (explaining that the court's role in affording injunctive relief is "to arrive at a 'nice

[5] The district court's August 29, 2025, ruling is on its face an "Order Granting as Modified Plaintiff's Motion for Preliminary Injunction," 1-ER-2 (capitalization modified), and thus by its very title is subject to Rule 65(d), which inherently precludes the procedure employed here.

adjustment and reconciliation' between the competing claims" such that the court "balances the conveniences of the parties and possible injuries"). But a bifurcated preliminary injunction process does just that, by separating the two crucial inquiries. The County's failure to introduce sufficient evidence to evaluate the comparative hardships of the parties would normally indicate a failure to meet its burden of establishing entitlement to the injunction. Instead, the County was effectively excused from making a clear showing (1) that it is irreparably harmed, (2) that there is an appropriately tailored causal connection between the County's requested remedy and that harm, and (3) that the balance of equities and the public interest favor that specific remedy.[6]

First, when assessing whether a plaintiff has demonstrated that it will likely suffer irreparable harm in the absence of an injunction, "[s]peculative injury does not constitute irreparable injury." *Goldie's Bookstore, Inc. v. Superior Ct. of State of Cal.*, 739 F.2d 466, 472 (9th Cir. 1984). Instead, there must be a "definitive threat

[6] The district court determined that, though "the County has not demonstrated that the requested injunctive relief is an appropriate remedy for the alleged harm," it had discretion to craft a different remedy. 1-ER-19. It is true that a court "need not grant the total relief sought by the applicant but may mold its decree to meet the exigencies of the particular case." *Trump v. Int'l Refugee Assistance Project*, 582 U.S. 571, 580 (2017) (citation omitted). But it is still fundamentally the movant's burden to introduce sufficient evidence from which the court can determine that a lesser remedy *clearly satisfies* each of the requirements for a preliminary injunction. *Starbucks Corp.*, 602 U.S. at 345. And, of course, the court must actually specify such a lesser remedy. These things did not happen here.

of future harm" that the injunction would prevent. *Nat'l Wildlife Fed'n v. Burlington N. R.R., Inc.*, 23 F.3d 1508, 1512 (9th Cir. 1994).

Here, the district court deferred setting the scope of the injunction in part because it expressly found that the evidence submitted by the County was unclear as to whether it concerned "the residents who live nearest to the Landfill (i.e., those who would benefit from the injunctive relief sought here)" and did not establish that "a significant number of the residents" for whom the County was seeking preliminary relief "are currently experiencing or likely to experience offensive odors." 1-ER-12-13. The district court found that the County had not "sufficiently justified" that the households for which it sought relocation funding "are the correct households," *id.* at 19, but the court nonetheless found there was a threat of imminent irreparable harm to some unidentified group of residents based solely on the testimony of three individuals. *Id.* at 15-18. The Court deferred any specific determination of what parties, other than those three specific residents, are at risk of irreparable harm. But without identifying the parties who are threatened, the district court could only conjecture that harm to some residents, somewhere, was possible. "Issuing a preliminary injunction based only on a possibility of irreparable harm is inconsistent with [the proper] characterization of injunctive relief as an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." *Winter*, 555 U.S. at 22.

Second, a preliminary injunction may issue only when it "is essential in order effectually to protect . . . against injuries otherwise irremediable." *Weinberger*, 456 U.S. at 312 (quoting *Cavanaugh v. Looney*, 248 U.S. 453, 456 (1919)). This means that a "sufficient causal connection" must exist between ameliorating the threatened irreparable harm and the ordered relief. *Nat'l Wildlife Fed'n v. Nat'l Marine Fisheries Serv.*, 886 F.3d 803, 819 (9th Cir. 2018) (quoting *Perfect 10, Inc. v. Google, Inc.*, 653 F.3d 976, 981-82 (9th Cir. 2011)). The district court deferred identifying not only the specific parties who were likely to suffer irreparable harm, but also how an abatement fund would prevent that harm. It did not assess how the fund would be distributed; whether it would be used for relocation, unidentified "home hardening" measures, or both; and, if relocation is included, the duration of the moves. 1-ER-10. The district court could not evaluate the connection between the relief and the specific irreparable harm that the residents were likely to suffer without deciding how the fund would address these threatened injuries.

Finally, these same shortcomings made it impossible for the district court to accurately weigh the balance of equities. When determining whether an injunction should issue, courts must "balance[ ] the conveniences of the parties and possible injuries to them according as they may be affected by the granting or withholding of the injunction." *Weinberger*, 456 U.S. at 312 (quoting *Yakus v. United States*, 321 U.S. 414, 440 (1944)). This assessment requires weighing "the relative hardship to

the parties that would result" from granting or denying the remedy at issue. *Aguirre v. Chula Vista Sanitary Serv. & Sani-Tainer, Inc.*, 542 F.2d 779, 781 (9th Cir. 1976). Here, the district court could not conduct such a comparison.

The district court made clear that it did not know how many or which residents are likely to experience irreparable harm from the alleged nuisance, and it made no findings regarding the nature of the harm they would experience other than to note that a single resident testified that the odors gave him a headache on one occasion. 1-ER-16. The district court expressly recognized that the County had not proven "long-term health impacts," and that "some residents" submitted declarations indicating they "are not as bothered by the odors they have experienced." 1-ER-16-17. Without knowing who would be affected by the alleged nuisance and how, the court could not have accurately assessed the total hardship that would likely result from withholding the injunction. And without knowing any specifics of how the abatement fund would be used to prevent that harm, the Court could not have evaluated the degree to which that remedy would lessen that hardship.

For much the same reason, it was not possible for the district court to weigh on the other side of the scale the burdens that an injunction would impose on Chiquita. Without any determination of what compliance would entail, including the amount of funding required, the court could not assess the hardship that compliance would cause. The district court's order left the weights on both sides of the scales

undefined, leaving it unable to accurately compare one against the other. Consequently, the court could not have adequately assessed whether granting an injunction was appropriate.

Ultimately, the district court deferred defining the scope of the injunction because it found that the County had not sufficiently demonstrated how many and which households were likely to suffer irreparable injuries, how the money would be used to ameliorate the threatened harm, and the risk of hardship to Chiquita in expending seemingly unrecoverable funds prior to final judgment. But these basic facts are an inherent part of deciding whether to issue an injunction in the first place. The County's failure to introduce sufficient evidence on them necessarily indicates a failure to meet its burden of establishing a right to extraordinary relief. The appropriate course was to deny the motion or, at most, withhold judgment pending further proceedings—not to announce the outcome of an incomplete process and give the County a second chance to produce evidence that it failed to produce the first time. *GEFT Outdoors, LLC v. City of Westfield*, 922 F.3d 357, 364 (7th Cir. 2019) ("If the plaintiff fails to meet any of these threshold requirements, the court must deny the injunction." (internal quotes and citations omitted)).

CONCLUSION

For the foregoing reasons, the Court should reverse and vacate the preliminary injunction order and remand for further proceedings.

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Respectfully submitted,

/s/ Varu Chilakamarri

Varu Chilakamarri
Spencer McCandless
K&L Gates LLP
1601 K Street NW
Washington, DC 20006
(202) 778-9000
varu.chilakamarri@klgates.com

Andrew R. Varcoe
Christopher Walker
U.S. Chamber Litigation Center
1615 H Street NW
Washington, DC 20062
(202) 463-5337

CERTIFICATE OF COMPLIANCE

9th Cir. Case Number 25-5754

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Signature /s/ Varu Chilakamarri **Date** October 16, 2025

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I hereby certify that, on October 16, 2025, I electronically filed the foregoing with the Clerk of the Court for the U.S. Court of Appeals for the Ninth Circuit using the appellate CM/ECF system and served copies of the foregoing via the Court's CM/ECF system on all ECF-registered counsel.

/s/ Varu Chilakamarri
Varu Chilakamarri
K&L Gates LLP
1601 K Street, NW
Washington, DC 20006
Phone: (202) 778-9000
varu.chilakamarri@klgates.com

Counsel for Amicus Curiae the Chamber of Commerce of the United States of America