

The law against preliminary injunctions restricting speech is nothing short of brutal:

“The right to free speech is ... one of the cornerstones of our society,” and is protected under the First Amendment of the United States Constitution and under an “even broader” provision of the California Constitution. (*Hurvitz v. Hoefflin* (2000) 84 Cal.App.4th 1232, 1241, 101 Cal.Rptr.2d 558; see Cal. Const., art. I, § 2, subd. (a).) An injunction that forbids a citizen from speaking in advance of the time the communication is to occur is known as a “prior restraint.” (DVD Copy, supra, 31 Cal.4th at p. 886, 4 Cal.Rptr.3d 69, 75 P.3d 1; *Hurvitz v. Hoefflin*, supra, 84 Cal.App.4th at p. 1241, 101 Cal.Rptr.2d 558.) A prior restraint is “the most serious and the least tolerable infringement on First Amendment \*1167 rights.’ ” (DVD Copy, supra, 31 Cal.4th at p. 886, 4 Cal.Rptr.3d 69, 75 P.3d 1; *Near v. Minnesota* (1931) 283 U.S. 697, 713, 51 S.Ct. 625, 75 L.Ed. 1357.) Prior restraints are highly disfavored and presumptively violate the First Amendment. (*Maggi v. Superior Court* (2004) 119 Cal.App.4th 1218, 1225, 15 Cal.Rptr.3d 161; *Hurvitz v. Hoefflin*, supra, 84 Cal.App.4th at p. 1241, 101 Cal.Rptr.2d 558.) This is true even when the speech is expected to be of the type that is not constitutionally protected. (See *Near v. Minnesota*, supra, 283 U.S. at pp. 704–705, 51 S.Ct. 625 [rejecting restraint on publication of any periodical containing “malicious, scandalous and defamatory” matter].)67 To establish a valid prior restraint under the federal Constitution, a proponent has a heavy burden to show the countervailing interest is compelling, the prior restraint is necessary and would be effective in promoting this interest, and less extreme measures are unavailable. (See *Hobbs v. County of Westchester* (2d Cir.2005) 397 F.3d 133, 149; see also *Nebraska Press Assn. v. Stuart* (1976) 427 U.S. 539, 562–568, 96 S.Ct. 2791, 49 L.Ed.2d 683.) Further, any permissible order “must be couched in the narrowest terms that will accomplish the pin-pointed objective permitted by constitutional mandate and the essential needs of the public order....” (*Carroll v. Princess Anne* (1968) 393 U.S. 175, 183–184, 89 S.Ct. 347, 21 L.Ed.2d 325.)89 Even if an injunction does not impermissibly constitute a prior restraint, the injunction must be sufficiently precise to provide “a person of ordinary intelligence fair notice that his contemplated conduct is forbidden.” (*United States v. Harriss* (1954) 347 U.S. 612, 617, 74 S.Ct. 808, 98 L.Ed. 989; see also *People ex rel. Gallo v. Acuna* (1997) 14 Cal.4th 1090, 1115, 60 Cal.Rptr.2d 277, 929 P.2d 596.) An injunction is unconstitutionally vague if it does not clearly define the persons protected and the conduct prohibited.

*Evans v. Evans*, 162 Cal. App. 4th 1157, 1166-67, 76 Cal. Rptr. 3d 859, 867 (2008)