**IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA GAINESVILLE DIVISION**

**BAYCORP HOLDINGS LTD. *et al.*,**

**Plaintiffs,**

**v.** **CASE NO. 1:13-cv-24-MW/GRJ.**

**THE CITY OF GAINESVILLE, FLORIDA, d/b/a GAINESVILLE REGIONAL UTILITIES,**

**Defendant.**
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**ORDER DENYING MOTION FOR PRELIMINARY INJUNCTION**

Before this Court is Baycorp Holdings LTD.; Energy Management, Inc.; Starwood Energy Group Global, LLC; Starwood Energy Group Global, Inc.; Ronald Fagen; and Diane Fagen's (collectively the "Plaintiffs") Motion for Preliminary Injunction, ECF No. 4.[1] For the reasons set forth below, the motion is **DENIED**.

It is well settled that "[a] district court may grant injunctive relief only if the moving party shows that: (1) it has a substantial likelihood of success on the

[1] ECF No. 4 contains Plaintiffs' request for a temporary restraining order as well as a preliminary injunction. On February 15, 2013, Chief Judge Rodgers denied the Plaintiff's request for a temporary restraining order and stated that the motion and the accompanying memorandum would be construed as a motion for preliminary injunction. ECF No. 8.

merits; (2) irreparable injury will be suffered unless the injunction issues; (3) the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party; and (4) if issued, the injunction would not be adverse to the public interest." *Siegel v. LePore*, 234 F.3d 1163, 1176 (11th Cir. 2000). Here, Plaintiffs' motion is denied on the grounds that they failed to demonstrate irreparable injury.

"A showing of irreparable harm is the sine qua non of injunctive relief." *Northeastern Fla. Chapter of the Ass'n of Gen. Contractors of Am. v. City of Jacksonville*, 896 F.2d 1283, 1285 (11th Cir. 1990). "An injury is 'irreparable' only if it cannot be undone through monetary remedies." *Id.* "Mere injuries, however substantial, in terms on money, time and energy necessarily expended in the absence of a stay, are not enough." *Sampson v. Murray*, 415 U.S. 61, 90, 94 S.Ct. 937, 953, 39 L.Ed.2d 166 (1974) (quotation marks and citation omitted). In dicta, Judge Tjoflat noted that the time and expenses incurred in participating in arbitration proceedings do not constitute irreparable injury. *Klay v. United Healthgroup, Inc.*, 376 F.3d 1092, 1112 n.20 (11th Cir. 2004). A year later, the Eleventh Circuit cited *Klay* for the proposition that the expense of participating in arbitration does not constitute irreparable injury. *Triangle Construction & Maintenance Corp. v. Our Virgin Island Labor Union*, 425 F.3d 938, 947 (11th

Cir. 2005). Accordingly, this Court denies Plaintiffs' motion for preliminary injunction on the grounds that they have failed to demonstrate irreparable injury.

This Court is cognizant of the case law relied upon by Plaintiffs for the proposition that a party is irreparably injured when forced to arbitrate a claim in the absence of an agreement to arbitrate that claim. However, setting aside *Triangle*, this Court finds the dicta in *Klay* more persuasive.

**SO ORDERED on July 25, 2013.**

**s/Mark E. Walker**
**United States District Judge**