

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

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Case No. 2:13-cv-01814-CAS(JPRx) Date August 18, 2017

Title KATHLEEN ANGEL EISENBERG v. CITIBANK N.A.; ET AL.

Present: The Honorable CHRISTINA A. SNYDER

Catherine Jeang

Not Present

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings: (IN CHAMBERS) - PLAINTIFF’S EX PARTE APPLICATION FOR A TEMPORARY RESTRAINING ORDER (Dkt. 185, filed August 18, 2017)

On February 8, 2013, plaintiff filed this action to recover damages, rescind the adjustable rate mortgage instrument, and prevent the foreclosure of her home at 25431 Prado De Las Fresas, Calabasas CA 91302 (“Subject Property”). Dkt. 1.

On July 10, 2017, the Court granted defendants’ motion for summary judgment on all remaining claims in this action. Dkt. 178. On July 13, 2017, the Court entered judgment in favor of defendants. Dkt. 180. Plaintiff filed a notice of appeal on August 14, 2017. Dkt. 181.

On August 18, 2017, plaintiff filed an ex parte application for a temporary restraining order to enjoin the foreclosure sale on the Subject Property. Dkt. 185. Plaintiff seeks an injunction pursuant to Federal Rule of Appellate Procedure 8, which provides: “A party must ordinarily move first in the district court for . . . an order suspending, modifying, restoring, or granting an injunction while an appeal is pending.” Fed. R. App. P. 8(a).

The standards for issuing a temporary restraining order and a preliminary injunction are “substantially identical.” Stuhlbarg Int’l Sales Co. v. John D. Brushy & Co., 240 F.3d 832, 839 n. 7 (9th Cir. 2001). A preliminary injunction is an “extraordinary remedy.” Winter v. Natural Res. Def. Council, Inc., 555 U.S. 7, 24 (2008). “A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of

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preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” Am. Trucking Ass’n, Inc. v. City of Los Angeles, 559 F.3d 1046, 1052 (9th Cir. 2009).

To the extent the Court retains jurisdiction, it construes the present application to be a request to stay enforcement of its judgment pending plaintiff’s appeal. However, the Court, having granted summary judgment in favor of defendants, has already concluded that plaintiff did not succeed on the merits of her claims. Accordingly, the Court **DENIES** plaintiff’s application for a temporary restraining order.

IT IS SO ORDERED.

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CMJ