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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

**RAFAEL VALTIERRA and OFELIA
VALTIERRA,**

Plaintiffs,

v.

**WELLS FARGO BANK, N.A., FKA
WACHOVIA MORTGAGE, CAL-
WESTERN RECONVEYANCE
CORPORATION, WACHOVIA
MORTGAGE FS, and 10 JOHN DOES,**

Defendants.

**CIV-F-10-1455 AWI GSA

ORDER DENYING PLAINTIFFS'
MOTION FOR TEMPORARY
RESTRAINING ORDER**

Plaintiffs have filed a “motion and application for emergency temporary restraining order.” Doc. 5. As far as can be determined no notice has been given to Defendants. The document is only two pages long in which Plaintiffs request “that Defendant and each of its agents shall desist and refrain from allowing Valtierra egress and ingress to his property and his personal property located at 1921 Katherine Court, Turlock, California 95382 from the date of this order until and to the fourteenth day after entry or until further ordered by this Court.” Doc. 5, at 2. Local Rule 231(c) spells out what a party moving for a temporary restraining order must do:

- No hearing on a temporary restraining order will normally be set unless the following documents are provided to the Court and, unless impossible under the circumstances, to the affected parties or their counsel:
- (1) a complaint;
 - (2) a motion for temporary restraining order;

- 1 (3) a brief on all relevant legal issues presented by the motion;
- 2 (4) an affidavit in support of the existence of an irreparable injury;
- 3 (5) an affidavit detailing the notice or efforts to effect notice to the affected parties
- 4 or counsel or showing good cause why notice should not be given, see L.R. 142;
- 5 (6) a proposed temporary restraining order with a provision for a bond, see L.R.
- 6 151;
- 7 (7) a proposed order with blanks for fixing the time and date for hearing a motion
- 8 for preliminary injunction, the date for the filing of responsive papers, the amount
- 9 of the bond, if any, and the date and hour of issuance, see L.R. 137; and
- 10 (8) in all instances in which a temporary restraining order is requested ex parte,
- 11 the proposed order shall further notify the affected party of the right to apply to
- 12 the Court for modification or dissolution on two (2) days' notice or such shorter
- 13 notice as the Court may allow. See Fed. R. Civ. P. 65(b).

14 Plaintiffs have not provided items three through eight. The Federal Rules state, "The court may
15 issue a temporary restraining order without written or oral notice to the adverse party or its
16 attorney only if: (a) specific facts in an affidavit or a verified complaint clearly show that
17 immediate and irreparable injury, loss, or damage will result to the movant before the adverse
18 party can be heard in opposition." Fed. R. Civ. Proc. 65(b)(1). The complaint is not a verified
19 complaint and no affidavit has been provided. Plaintiffs have not explained why a temporary
20 restraining order must issue before Defendants can be heard in opposition. The court can not
21 issue a temporary restraining order on the basis of the document Plaintiffs have filed. Plaintiffs
22 are advised to follow the requirements of the Federal Rules of Civil Procedure and the Local
23 Rules of the Eastern District, with particular emphasis on Fed. R. Civ. Proc. 65 and L.R. 142 and
24 231.

25 Plaintiffs' motion is DENIED.

26 IT IS SO ORDERED.

27 Dated: September 8, 2010

28 
CHIEF UNITED STATES DISTRICT JUDGE