

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

Plaintiffs have filed an application for a temporary restraining order requesting that the court enjoin defendant Onewest Bank, FSB from selling their home at a trustee's sale, currently scheduled to occur on April 9, 2010. Plaintiffs, however, have not shown they are entitled to have their unnoticed TRO application considered.

Federal Rule of Civil Procedure 65(b)(1) prescribes:

The court may issue a temporary restraining order without written or oral notice to the adverse party or its attorney only if:

(A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will

1 result to the movant before the adverse party
2 can be heard in opposition; and
3 (B) the movant's attorney certifies in writing any
efforts made to give notice and the reasons
why it should not be required.

4

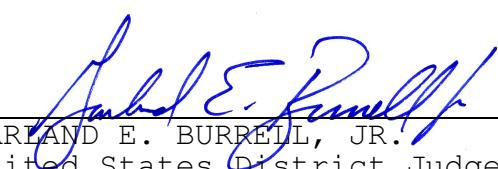
5 Fed. R. Civ. P. 65(b)(1). Further, Local Rule 231(a) prescribes the
6 type of notice the moving party is required to provide the adverse
7 party:

8 Except in the most extraordinary of circumstances,
9 no temporary restraining order shall be granted in
the absence of actual notice to the affected party
and/or counsel, by telephone or other means, or a
10 sufficient showing of efforts made to provide
notice. Appropriate notice would inform the
11 affected party and/or counsel of the intention to
seek a temporary restraining order, the date and
time for hearing to be requested of the Court, and
12 the nature of the relief requested. Once a specific
13 time and location has been set by the Court, the
14 moving party shall promptly give additional notice
of the time and location of the hearing.

15 E.D. Cal. R. 231(a).

16 Since Plaintiffs have failed to comply with the notice
17 requirements in Federal Rule of Civil Procedure 65(b)(1) and Local
18 Rule 231(a), Plaintiffs' TRO application is denied.

19 Dated: April 5, 2010

20 
21 GARLAND E. BURRELL, JR.
22 United States District Judge