

1 Pursuant to Local Rule 231(a) "[e]xcept in the most
2 extraordinary of circumstances, no temporary restraining order
3 shall be granted in the absence of actual notice to the affected
4 party and/or counsel, by telephone or other means, or a
5 sufficient showing of efforts made to provide notice." Moreover,
6 Federal Rule of Civil Procedure 65(b) mandates that the Court may
7 not issue a TRO without notice to the adverse party unless:

8 "a) specific facts in an affidavit or verified
9 complaint clearly show that immediate and irreparable
10 injury, loss, or damage will result to the movant
11 before the adverse party can be heard in opposition;
12 **and**

13 b) the movant's attorney certifies in writing any
14 efforts made to give notice and the reasons why it
15 should not be required."

16 Fed. R. Civ. P. 65(b) (emphasis added). Issuance of a Preliminary
17 Injunction requires actual notice to the adverse party. Fed. R.
18 Civ. P. 65(a).

19 Plaintiff has failed to indicate any efforts made to provide
20 notice to Defendant. Rather, the TRO Checklist completed by
21 Plaintiff (Docket No. 7) specifically acknowledges that there has
22 been no actual notice nor efforts to provide notice to the
23 Defendant and, at best, states that "[Plaintiff is] going to
24 notify Defendant," at some unspecified point in the future. This
25 is insufficient to meet the mandates of Local Rules and the
26 Federal Rules of Civil Procedure. The Court cannot, on these
27 grounds, provide Plaintiff the relief requested.

28 ///

///

///

///

1 Additionally, Plaintiff's pleading fails to provide the date
2 and time of the expected trustee's sale of her home. As a
3 procedural matter, it is not possible for the Court to enjoin an
4 event which, within the Court's knowledge, is not yet scheduled
5 to occur. Plaintiff can not be said to have met her burden of
6 showing *immediate* irreparable harm, when the immediacy of the
7 harm not been definitively alleged.

8 Given Plaintiff's failure to provide any notice whatsoever
9 to Defendant, or to provide the Court with the date and time of
10 the foreclosure sale, Plaintiff's Application for Temporary
11 Restraining Order is DENIED without prejudice. To the extent
12 that Plaintiff intended her request for relief to also constitute
13 a Motion for Preliminary Injunction, it is also DENIED without
14 prejudice.

15 IT IS SO ORDERED.

16 Dated: August 10, 2010

17
18 

19 MORRISON C. ENGLAND, JR.
20 UNITED STATES DISTRICT JUDGE