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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TONYA MURPHY and SAMUEL SMITH,

Plaintiffs,

v.

JP MORGAN CHASE; VANZETTI PROPERTY; NATIONAL DEFAULT SERVICING LP,

Defendants.

No. 2:15-cv-00725-KJM-GGH

ORDER

On April 6, 2015, plaintiffs Tonya Murphy¹ and Samuel Smith, appearing without counsel, filed a motion for a preliminary injunction. ECF No. 10. Their motion also requests a temporary restraining order (TRO). *See id.* at 1, 8. The analysis applicable to TROs and preliminary injunctions is “substantially identical.” *Stuhlberg Int’l. Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). Because the plaintiffs’ motion does not meet the applicable standard, it is denied without prejudice.

First, the Local Rules of the Eastern District of California impose certain requirements on litigants who seek TROs:

¹ Elsewhere plaintiffs refer to Ms. Murphy as Tonya Smith-Murphy. *Compare, e.g.*, First Am. Compl. 1, ECF No. 9 with Mot. Prelim. Inj. 1, ECF No. 10.

1 No hearing on a temporary restraining order will normally be set
2 unless the following documents are provided to the Court and,
3 unless impossible under the circumstances, to the affected parties or
4 their counsel:

5 (1) a complaint;

6 (2) a motion for temporary restraining order;

7 (3) a brief on all relevant legal issues presented by the motion;

8 (4) an affidavit in support of the existence of an irreparable injury;

9 (5) an affidavit detailing the notice or efforts to effect notice to the
10 affected parties or counsel or showing good cause why notice
11 should not be given, . . . ;

12 (6) a proposed temporary restraining order with a provision for a
13 bond . . . ;

14 (7) a proposed order with blanks for fixing the time and date for
15 hearing a motion for preliminary injunction, the date for the filing
16 of responsive papers, the amount of the bond, if any, and the date
17 and hour of issuance . . . ; and

18 (8) in all instances in which a temporary restraining order is
19 requested ex parte, the proposed order shall further notify the
20 affected party of the right to apply to the Court for modification or
21 dissolution on two (2) days' notice or such shorter notice as the
22 Court may allow.

23 E.D. Cal. L.R. 231(c). The plaintiffs' motion omits several of these documents.

24 *Pro se* litigants are held to the same standard as those represented by a lawyer. *See* E.D. Cal. L.R.
25 183(a). Nevertheless, by long tradition, federal courts may afford unrepresented litigants leniency
26 in their filings. *Cf., e.g., Haines v. Kerner*, 404 U.S. 519, 520 (1972) (per curiam); *Fajeriak v.*
27 *McGinnis*, 493 F.2d 468, 470 (9th Cir. 1974); *Forte v. Cnty. of Merced*, No. 11-00318, 2014 WL
28 4745923, at *10 (E.D. Cal. Sept. 23, 2014). The court therefore considers the merits of plaintiffs'
motion, but cautions that any future motions must comply with the Local Rules.

A temporary restraining order may be issued upon a showing "that immediate and
irreparable injury, loss, or damage will result to the movant before the adverse party can be heard
in opposition." Fed. R. Civ. P. 65(b)(1)(A). The purpose of such an order is to preserve the
status quo and to prevent irreparable harm "just so long as is necessary to hold a hearing, and no
longer." *Granny Goose Foods, Inc. v. Brotherhood of Teamsters*, 415 U.S. 423, 439 (1974). In

1 determining whether to issue a temporary restraining order, a court applies the factors that guide
2 the evaluation of a request for preliminary injunctive relief, *see Stuhlberg*, 240 F.3d at 839 n.7:
3 whether the moving party (1) “is likely to succeed on the merits,” (2) “likely to suffer irreparable
4 harm in the absence of preliminary relief,” (3) “the balance of equities tips in [its] favor,” and (4)
5 “an injunction is in the public interest.” *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20
6 (2008).

7 Here, the plaintiffs argue the defendants’ liability stems from the wrongful
8 foreclosure sale of real property located at 929 Bess Place in Stockton, California. *See Mot.* 2–3,
9 5–6. They have attached documents to show a trustee’s sale is complete and the purchasers
10 intend to take possession of the property. *Id.* Exs. 3, 5. They allege the defendants have
11 “attempt[ed] to take property that is not legal[ly] theirs,” and they seek to halt other lawsuits. *Id.*
12 at 8.

13 The court admits its difficulty understanding the plaintiffs’ legal arguments. The
14 plaintiffs’ motion and supporting documents do not clearly describe their claims or show their
15 likely success. The motion for a temporary restraining order and preliminary injunction is
16 DENIED without prejudice. This order resolves ECF No. 10.

17 IT IS SO ORDERED.

18 DATED: April 8, 2015.

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21 UNITED STATES DISTRICT JUDGE
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