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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FORD MOTOR CREDIT COMPANY,

No. C-07-1783 JSW (EMC)

Plaintiff,

v.

**ORDER DENYING PLAINTIFF’S EX
PARTE APPLICATION FOR WRIT OF
POSSESSION**

SEBASTOPOL FORD, INC.,

Defendant.

_____ /

United States District Court
For the Northern District of California

Plaintiff Ford Motor Credit Co. has filed an ex parte application for writ of possession and for injunctive relief, which Judge White has referred to the undersigned for a report and recommendation.

As noted above, Plaintiff seeks an ex parte writ of possession. However, that is a drastic remedy generally disfavored, in part because a TRO pursuant to California Code of Civil Procedure § 513.010 is more readily available. *See Sea Rail Truckloads, Inc. v. Pullman, Inc.*, 131 Cal. App. 3d 511, 515 (1982) (noting that an ex parte writ of possession is appropriate “only when less intrusive remedies would be ineffective”; concluding that plaintiff was not entitled to an ex parte writ of possession because plaintiff failed to show an *immediate* danger that the property would be transferred, concealed or removed from the state or become substantially impaired in value by acts of destruction or by failure to take care of the property in a reasonable manner). Accordingly, the Court denies Plaintiffs’ request for an ex parte writ of possession and shall proceed with Plaintiff’s request for a TRO pending a noticed claim and delivery hearing.

1 Consistent with the Court’s order of April 12, 2007, a claim and delivery hearing shall be
2 held on **April 27, 2007**, at 2:30 p.m. Any opposition to the application for writ of possession shall
3 be filed and served by April 20, 2007, and any reply by April 25, 2007. All papers and the hearing
4 shall also address Plaintiff’s alternative request for a preliminary injunction.¹ See App. at 16.

5 **In addition**, prior to the claim and delivery hearing, the Court shall hold a hearing on
6 Plaintiff’s request for a TRO pending the claim and delivery hearing. The hearing on the TRO
7 request shall be held on **April 18, 2007**, at 2:30 p.m. Any opposition to the request for a TRO shall
8 be filed and served by 3:00 p.m. on April 17, 2007.

9 Finally, Plaintiff is ordered to file a copy of the proof of service for the summons and
10 complaint by April 16, 2007.

11 Upon receipt of this order, Plaintiff shall immediately serve a copy of this order on
12 Defendant as well as a copy of the notice form (CD-110) adopted by the California Judicial Council.
13 See Cal. Code Civ. Proc. § 512.040 (notice of application and hearing for writ of possession).
14 Plaintiff shall effect service so that the documents are received by Defendant today.

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16 IT IS SO ORDERED.

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18 Dated: April 13, 2007

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EDWARD M. CHEN
United States Magistrate Judge

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¹ The Court acknowledges that Plaintiff also seeks a preliminary injunction directing Defendant to protect and preserve the property at issue pending turnover or seizure. See Cal. Code Civ. Proc. § 513.010(c).