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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MIKE JOHN ELY,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
EDUCATION,

Defendant.

Case No. [17-cv-03006-JD](#)

ORDER RE TRO

Plaintiff Mike John Ely, appearing pro se, requests a temporary restraining order relating to a garnishment action in a student loan collection dispute. Dkt. No. 1. The request is denied.

Ely did not serve the TRO papers on the United States. Civil Local Rule 65-1(b) provides that, “[u]nless relieved by order of a Judge for good cause shown, on or before the day of an ex parte motion for a temporary restraining order, counsel applying for the temporary restraining order must deliver notice of such motion to opposing counsel or party.” Here, the moving papers provide no indication that notice was provided and Ely has not established good cause for relief from this requirement.

Federal Rule of Civil Procedure 65(b)(1) permits a temporary restraining order without notice to the adverse party when:

- (A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and
- (B) the movant’s attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

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The TRO request does not fall within these provisions. Ely makes generalized statements about how garnishment will harm his ability to care for his children and put him at “significant risk of permanent financial disruption,” but he does not provide any specific facts clearly showing immediate and irreparable harm along these lines. *See* Dkt. No. 1 at 3. He has also not certified in writing any attempts to give notice to defendant. Consequently, a TRO is not warranted at this time.

IT IS SO ORDERED.

Dated: May 25, 2017



JAMES DONATO
United States District Judge