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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

STEPHEN J. MILLMAN, et al.,

Plaintiffs,

v.

WILMINGTON SAVINGS FUND  
SOCIETY, FSB, et al.,

Defendants.

Case No. [17-cv-04123-EMC](#)

**ORDER DENYING DEFENDANTS' EX  
PARTE APPLICATION TO DISSOLVE  
TEMPORARY RESTRAINING ORDER**

Docket No. 21

On October 10, 2017, Defendants Wilmington Trust and BSI Financial Services filed an Application to Dissolve Temporary Restraining Order, arguing that the pre-removal state-court temporary restraining order (TRO) had expired. Docket No. 21. Plaintiffs Lynda Millman and Stephen Millman acknowledge that the TRO had expired. Docket No. 23. Defendants nevertheless argue that an order dissolving the TRO is necessary, because “all of the existing state court orders remain in effect until modified or dissolved by the federal court.” Docket No. 24 at 3.

“An ex parte temporary restraining order issued by a state court prior to removal remains in force after removal no longer than it would have remained in effect under state law, *but in no event does the order remain in force longer than the time limitations imposed by Rule 65(b), measured from the date of removal.*” *Granny Goose Foods, Inc. v. Brotherhood of Teamsters & Auto Truck Drivers Local No. 70 of Alameda Cty.*, 415 U.S. 423, 439-40 (1974) (emphasis added). Rule 65(b) limits temporary restraining orders to 14 days. Fed. R. Civ. P. 65(b)(2). This action was removed to federal court on July 20, 2017. Docket No. 1. Under law, the TRO therefore expired on October 3, 2017. No party disputes this. *See* Docket Nos. 21, 23. An order affirmatively dissolving the TRO is therefore unnecessary. *See Granny Goose Foods*, 415 U.S. at 434-35 (finding “no basis” for the argument that removal transforms state-court TROs into

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“injunctions of unlimited duration” that terminate only when “affirmatively dissolved . . . by the district court”).

Because the TRO has expired, Defendants’ Application is **DENIED** as moot.

This order disposes of Docket No. 21.

**IT IS SO ORDERED.**

Dated: October 16, 2017



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EDWARD M. CHEN  
United States District Judge