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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

THE WESTON FIRM, P.C.,	
	Plaintiff,
vs.	
REESE RICHMAN LLP; BECK & LEE, P.A.,	
	Defendants.

CASE NO. 10-CV-1694 W (CAB)
ORDER:

1) DENYING EX PARTE
MOTION FOR TEMPORARY
RESTRAINING ORDER
(DOC. NO. 12.)

2) ORDER TO SHOW CAUSE
REGARDING RULE 11
SANCTIONS

On September 23, 2010, Plaintiff The Weston Firm, P.C. (“Weston”) filed an *ex parte* motion for a temporary restraining order (“TRO”). (Doc. No. 12.) On September 28, 2010, Defendants Beck & Lee, P.A. (“Beck & Lee”) and Reese Richman LLP (“Reese Richman”) each filed an opposition to the TRO request. (Doc. Nos. 19, 21.) All three law firms represent plaintiffs in class action litigation.

The Court decides the matter on the papers submitted and without oral argument. See S.D. Cal. Civ. R. 7.1(d.1) For the reasons stated below, the Court **DENIES** Plaintiff’s application for a TRO.

1 Weston filed this lawsuit against Beck & Lee and Reese Richman for their
2 alleged violations of various joint prosecution agreements. (Doc. No. 10.) Weston's
3 main assertion appears to be that several of its clients have attempted to fire Beck &
4 Lee, but despite these communications, Beck & Lee refuses to withdraw as counsel. In
5 the instant motion, Weston seeks to enjoin Beck & Lee from contacting any Weston
6 client, or from holding themselves out as representing any client that purportedly fired
7 them. Having thoroughly reviewed the moving papers, the Court can not grant the
8 requested relief, for at least two reasons.

9 First, this Court's chambers' rules state that "[b]efore filing any ex parte
10 application, counsel shall make every attempt to contact the opposing party to meet and
11 confer regarding the subject of the ex parte application," and must submit a declaration
12 confirming that such efforts were made. (See Civil Procedure Chambers' Rules for The
13 Honorable Thomas J. Whelan.) As noted by Beck & Lee, Weston's supporting
14 declaration does not indicate that Attorney Gregory Weston made any attempts to
15 contact opposing counsel before filing the instant ex parte application. (See Doc. No.
16 13.) In contrast, Beck & Lee has provided a sworn declaration indicating that such
17 communication did not occur. (*Lee Decl.* at ¶ 2.) As such, the Court believes that the
18 application is deficient and must be **DENIED**.

19 And second, even if this Court was inclined to address the merits of the TRO, the
20 requested relief is overly broad and would potentially conflict with the rulings of other
21 federal district courts. For example, on September 14, 2010, after extensive briefing and
22 oral argument, District Judge James Ware, from the Northern District of California,
23 denied Weston's motion to terminate Beck & Lee and Reese Richman as counsel of
24 record in Red v. Unilever PLC, Case No. C 10-00387-JW, 2010 WL 3629689 (N.D.
25 Cal. 2010). Specifically, Judge Ware ordered Beck & Lee and Reese Richman to
26 continue their joint representation of the named plaintiffs in order to "bring the
27 settlement to a conclusion." *Id.* at *3.

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1 Weston also has a similar situation pending before Chief Judge A. Howard Matz
2 in the Central District of California. (See Doc. No. 20 at Ex C., Henderson v. Gruma
3 Corp., Case No. CV 10-4173 AHM (C.D. Cal. 2010)). And in yet another relevant
4 example, on August 24, 2010, District Judge Marilyn Hall Patel, from the Northern
5 District of California, acknowledged the conflict between Weston and Beck & Lee and
6 ordered them both to sign a pledge regarding professional civility. (See Doc. No. 20 at
7 Ex B., Case No. C 10-1321/10-2351 MHP (N.D. Cal. 2010)).

8 Curiously, neither the FAC or the TRO application mention Judge Ware's
9 September 14th Order, nor did they fully explain the pending matters before Judge Matz
10 or Judge Patel. Thankfully, Beck & Lee filed a thorough opposition, which allowed this
11 Court to avoid inadvertently enjoining the decisions of jurists from equal courts. See
12 Green v. Citigroup, Inc., 68 Fed. Appx. 934, 936 (10th Cir. 2003) (stating that it "is
13 axiomatic that one district court has no jurisdiction to review the decision of another
14 district court.") (citing Celotex Corp. v. Edwards, 514 U.S. 300, 313 (1995)).

15 In sum, Weston has dramatically failed to carry the burden of persuasion. See
16 Mazurek v. Armstrong, 520 U.S. 968, 972 (1997) (explaining that injunctive relief is an
17 extraordinary and drastic remedy, one that should not be granted unless the movant,
18 by a clear showing, carries the burden of persuasion). As such, the motion for a
19 temporary restraining order is **DENIED**. (Doc. No. 12.)

20 Additionally, this Court is now concerned that Weston deliberately failed to
21 mention Judge Ware's September 14th ruling in an attempt to invoke this Court's power
22 through deception. If true, this behavior is specifically alarming because it seems to
23 have been aimed at improperly circumventing the rulings of other district courts.

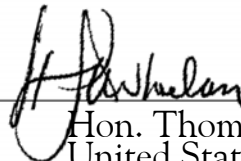
24 In light of that concern, Plaintiff's counsel Gregory Weston is hereby **ORDERED**
25 **TO SHOW CAUSE** at **9:00a.m. on October 29, 2010**, in the courtroom of the
26 Honorable Thomas J. Whelan, located at 940 Front Street, San Diego, CA 92101, as
27 to why his filing of the TRO request, which never mentioned Judge Ware's September
28 14th ruling and many other significant pieces of known information, did not violate

1 Rule 11(b) of the Federal Rules of Civil Procedure. Attorney Gregory Weston should
2 also be prepared to discuss why this Court should not impose sanctions based upon such
3 a violation. See FED. R. CIV. P. 11(c).

4 In preparation for the OSC hearing, the Court also **ORDERS BRIEFING** from
5 the parties. Attorney Gregory Weston shall file his brief **before noon on October 6,**
6 **2010.** Defendants' response, should they choose to submit one, shall be filed **before**
7 **noon on October 22, 2010.** Neither submission shall exceed five pages in total length.

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9 **IT IS SO ORDERED.**

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11 DATED: September 30, 2010

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15 Hon. Thomas J. Whelan
16 United States District Judge
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