

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. '10 - CV - 01072 - BNB

(The above civil action number must appear on all future papers sent to the court in this action. Failure to include this number may result in a delay in the consideration of your claims.)

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

CLAIRE L. HUCKFELDT,

Plaintiff,

v.

"BAC HOME LOANS SERVICING, LP, fka COUNTRYWIDE HOME LOANS
SERVICING, L.P.,"
CASTLE, MEINHOLD & STAWIARSKI, LLC, and
CRISTEL D. SHEPHERD, individually and in her official capacity as attorney,

Defendants.

MAY - 7 2010

GREGORY C. LANGHAM
CLERK

**ORDER DIRECTING CLERK TO COMMENCE CIVIL ACTION AND
DIRECTING PLAINTIFF TO CURE DEFICIENCY AND
DENYING PLAINTIFF'S REQUEST FOR INJUNCTIVE RELIEF**

Plaintiff Claire L. Huckfeldt has submitted an "Urgent Memorandum," a document titled "Information for Temporary Restraining Order," three Civil Cover Sheets, a Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915, and an incomplete Complaint. As part of the Court's review pursuant to D.C.COLO.LCivR 8.1, the Court has determined that the submitted documents are deficient as described in this Order. Notwithstanding the deficiencies, the Clerk of the Court will be directed to commence a civil action. Ms. Huckfeldt is directed to have the affidavit in her Motion for Leave to

Proceed Pursuant to 28 U.S.C. § 1915 notarized or sworn to as required under 28 U.S.C. § 1746 and to provide an original signature on the Complaint.

With respect to Ms. Huckfeldt's Request for a Preliminary Injunction or a Temporary Restraining Order to delay the wrongful eviction from her townhouse on May 9, 2010, a party seeking a preliminary injunction must show a substantial likelihood of prevailing on the merits, that she will suffer irreparable injury unless the injunction issues, that the threatened injury outweighs whatever damage the proposed injunction may cause the opposing party, and that the injunction, if issued, would not be adverse to the public interest. **See *Lundgrin v. Claytor***, 619 F.2d 61, 63 (10th Cir. 1980). Similarly, a party seeking a temporary restraining order must demonstrate clearly, with specific factual allegations, that immediate and irreparable injury will result unless a temporary restraining order is issued. **See Fed. R. Civ. P. 65(b)**.

At this stage, it is not clear whether Ms. Huckfeldt is seeking to challenge Defendants' attempt to persist in monetary debt collection activities under the Fair Debt Collections Practices Act or simply a typical foreclosure action. Therefore, Dismissal of the action is not proper at this time. Nonetheless, Ms. Huckfeldt's request to forestall the eviction is an appeal of an unfavorable state court judgment and is outside of this Court's jurisdiction under the ***Rooker v. Feldman*** doctrine. ***Rooker v. Fidelity Trust Co.***, 263 U.S. 413 (1923); ***District of Columbia Court of Appeals v. Feldman***, 460 U.S. 462 (1983). The request to delay the eviction is improperly before this Court and will be denied. Accordingly, it is

ORDERED that the Clerk of the Court commence a civil action in this matter. It is

FURTHER ORDERED that Ms. Huckfeldt cure the deficiencies designated above **within thirty days from the date of this Order**. Any papers which Ms. Huckfeldt files in response to this Order must include the civil action number on this Order. It is

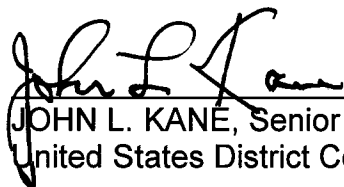
FURTHER ORDERED that the Clerk of the Court mail to Ms. Huckfeldt, together with a copy of this Order, two copies of the Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 Court-approved form. It is

FURTHER ORDERED that if Ms. Huckfeldt fails to cure the designated deficiencies **within thirty days from the date of this Order** the Complaint and the action will be dismissed without further notice. The dismissal shall be without prejudice. It is

FURTHER ORDERED that Ms. Huckfeldt's Request for a Preliminary Injunction or a Temporary Restraining Order is DENIED.

DATED at Denver, Colorado, this 7 day of May, 2010.

BY THE COURT:



JOHN L. KANE, Senior Judge
United States District Court

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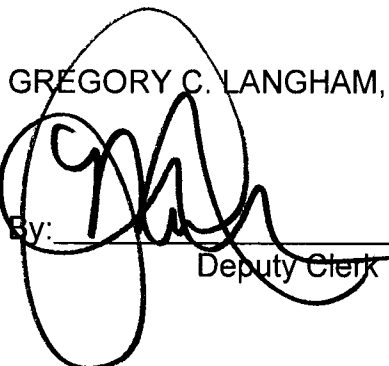
CERTIFICATE OF MAILING

Civil Action No. 10-cv-01072-BNB

Claire L. Huckfeldt
11264 W. Rice Place
Littleton, CO 80127

I hereby certify that I have mailed a copy of the **ORDER and two copies of the Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915** to the above-named individuals on 5/7/10

GREGORY C. LANGHAM, CLERK

By:  _____
Deputy Clerk