

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Senior Judge Zita Leeson Weinshienk

Civil Action No. 10-cv-01900-ZLW-KLM

DAVID RITZ,

Plaintiff,

v.

BANK OF AMERICA HOME LOANS,

Defendant.

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ORDER

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The matter before the Court is Plaintiff's Petition For Restraining Order (Doc. No. 2). Plaintiff requests a temporary restraining order preventing Defendant from selling Plaintiff's property.

Pursuant to D.C.COLO.LCivR 65.1A.2., the Court "will not consider an ex parte motion for temporary restraining order" except in accordance with Fed. R. Civ. P. 65(b). Under Fed. R. Civ. P. 65(b)(1)(A), a temporary restraining order will only issue without notice to the adverse party if "specific facts . . . show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition." Plaintiff alleges in his verified motion that the property that is the subject of this lawsuit is scheduled to be sold on November 2, 2010. The Court finds that this sale, scheduled almost three months from the current date, is not an "immediate and irreparable injury, loss, or damage" that needs to be remedied with the drastic action of

entering an order without providing notice to Defendant. Plaintiff has ample time to serve Defendant, and allow Defendant time to review and respond to Plaintiff's allegations, within the next few months before the sale.

Additionally, Fed. R. Civ. P. 65(b)(1)(B) requires the Plaintiff to certify "any efforts made to give notice and the reasons why it should not be required." Plaintiff admits that he made no attempt to provide notice to Defendant, and explains this lack of notice by making the conclusory statement that he will suffer immediate and irreparable injury, loss, or damage. Reproducing verbatim the standard for granting a temporary restraining order is insufficient reasoning as it provides no insight as to why notice is not necessary in this particular case. Accordingly, it is

ORDERED that Plaintiff's Petition For Restraining Order (Doc. No. 2; Aug. 10, 2010) is denied.

DATED at Denver, Colorado, this 12th day of August, 2010.

BY THE COURT:

A handwritten signature in blue ink that reads "Zita Leeson Weinsienk". The signature is written in a cursive style with a horizontal line underneath the name.

ZITA LEESON WEINSHIENK, Senior Judge  
United States District Court