

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 12-60976-Civ-SCOLA

GRAIL SEMICONDUCTOR, INC.,

Plaintiff,

vs.

ROBERT B. STERN,

Defendant.

**ORDER DENYING EMERGENCY MOTION FOR TEMPORARY
RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

THIS MATTER is before the Court upon the Emergency Motion for Temporary Restraining Order and Preliminary Injunction [ECF No. 8], filed by Plaintiff Grail Semiconductor, Inc. The Court finds that this Motion should be denied without prejudice.

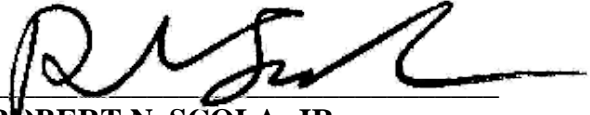
First, the Motion fails to establish a sufficient basis for the issuance of the relief requested without notice to the Defendant. Plaintiff professes concern that the Defendant, if notified, may rush to sell off shares of the restricted stock upon the belief that an injunction is coming. The Court finds this outcome improbable. It is doubtful that Defendant will be able to effectuate stock transactions in mass in a period of fourteen days or less, by convincing any interested purchasers that they must buy the stock immediately or not at all. Any such risk is outweighed by the benefit of allowing Defendant notice and an opportunity to respond to the Motion. Therefore, the Court will not allow this Motion *ex parte*.

Second, the Motion does not appear to sufficiently establish irreparable harm or lack of adequate remedy at law. Indeed, the portion of the Motion devoted to a showing of irreparable harm is conclusory and contains but two sentences, without any explanation elucidating the irreparable harm particularly. Elsewhere in the Motion, Plaintiff floats the specter of potential litigation to determine ownership rights in Grail and ownership rights in Defendant's stock; the prospect that Grail will be unable to raise capital as a result of uncertainties in the value of company stock; and putative regulatory penalties for failing to properly police shareholders such

as Defendant for engaging in prohibited stock transactions. Any such harm is speculative and unsupported on the present record. Aside from this, Plaintiff has failed to show that these harms, even if real and imminent, are also irreparable, as they must be to support the issuance of a restraining order and injunction.

Accordingly, it is hereby **ORDERED and ADJUDGED** that the Motion is **DENIED** without prejudice. The Motion may be re-filed, if the Plaintiff provides the Defendant with notice and an opportunity to respond and if the other deficiencies noted in this Order are cured, assuming they can be.

DONE and ORDERED in chambers, at Miami, Florida on May 23, 2012.



ROBERT N. SCOLA, JR.
UNITED STATES DISTRICT JUDGE

Copies to:
Designated U.S. Magistrate Judge
Counsel of record