

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

CASE NO. 08-21666-CIV-JORDAN

BOSS GROUP, LLC)
)
Plaintiff)
)
vs.)
)
OCEAN BANK, et. al)
)
Defendants)
_____)

ORDER DENYING EMERGENCY MOTION FOR INJUNCTIVE RELIEF

Boss Group filed this *pro se* action on June 11, 2008, alleging that the defendants failed to disclose required financial information about a mortgage lien on a property that Boss Group seeks to purchase. Boss Group also filed an emergency motion for a restraining order seeking to enjoin the foreclosure sale of the property. On the same date, I denied the motion for a restraining order because Boss Group is a corporation and cannot appear *pro se* or through its officers in federal court. I also noted that Boss Group had not provided any sworn testimony in support of its motion [D.E. 4, 6].

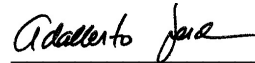
On September 9, 2008, Boss Group, through its retained counsel, filed a verified amended complaint and another emergency motion for an injunction preventing the defendants from evicting it from the property in question. But the motion fails to provide any reason as to why *ex parte* injunctive relief is necessary here. In its motion, Boss Group does not state when the defendants allegedly intend to evict it, nor does it explain why this case - which was dormant for almost three months - has now become an emergency. Indeed, there apparently has been no service of process in the past three months.

Given Boss Group's failure to sufficiently establish that *ex parte* injunctive relief is necessary, I am reluctant to exercise my discretion to issue a restraining order without notice in this case. *See generally Yakus v. United States*, 321 U.S. 414, 440 (1944) ("The award of an interlocutory injunction by courts of equity has never been regarded as strictly a matter of right, even though irreparable injury may otherwise result to the plaintiff."); *Pioneer Military Lending of Ga., Inc. v. McCollum*, 221 Fed.Appx. 892, 893 (11th Cir. 2007) ("The grant or denial of a preliminary injunction is a decision within the discretion of the district court."). *See also* Fed.R.Civ.P.

65(b)(1)(B)(attorney for party seeking temporary restraining order must certify reasons why notice should not be required).

Accordingly, Boss Group's motion for ex parte emergency injunctive relief [D.E. 7, 8] is DENIED.

DONE and ORDERED in chambers in Miami, Florida, this 9th day of September, 2008.



Adalberto Jordan
United States District Judge

Copy to: All counsel of record