

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 16-10911-GAO

GREGG C. MCALLISTER AND NATALIE M. MCALLISTER,
Plaintiffs,

v.

COUNTRYWIDE HOME LOANS, INC., BANK OF AMERICA, N.A.,
DITECH FINANCIAL LLC f/k/a GREEN TREE SERVICING LLC, and
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.,
Defendants.

ORDER
May 24, 2016

O'TOOLE, D.J.

The plaintiffs, Gregg C. McAllister and Natalie M. McAllister, acting *pro se*, have brought this action against a number of banks that allegedly had or continue to have an interest in the McAllisters' home mortgage loan. The plaintiffs have filed a motion for a temporary restraining order and preliminary injunction, seeking to stop a foreclosure sale on their home, currently scheduled for June 9, 2016. This action was recently filed, and no defendants have yet been served with the Complaint or this motion.

Because the foreclosure sale is not an immediate threat, the motion is denied without prejudice at this time. The request for a preliminary injunction may be renewed after the plaintiffs serve the summons and complaint in accordance with Rule 4 of the Federal Rules of Civil Procedure. See Fed. R. Civ. Pro. 4(h) (describing the methods of service on a corporation, partnership, or other unincorporated association). Proof of service must be filed with the Court. See Fed. R. Civ. Pro. 4(l).

In particular, a renewed motion should fully set out the basis for a preliminary injunction.

Preliminary injunctions are evaluated under a four-part test:

(1) the likelihood of success on the merits; (2) the potential for irreparable harm if the injunction is denied; (3) the balance of relevant impositions, i.e., the hardship to the nonmovant if enjoined as contrasted with the hardship to the movant if no injunction issues; and (4) the effect (if any) of the court's ruling on the public interest.

Ross-Simons of Warwick, Inc. v. Baccarat, Inc., 102 F.3d 12, 15 (1st Cir. 1996). Of these four, the first, likelihood of success on the underlying claims, is the most important. See id. at 16.

The plaintiffs' Motion for Temporary Restraining Order (dkt. no. 5) is DENIED without prejudice.

The clerk will set a status conference for June 6, 2016 at 2:30 p.m.

It is SO ORDERED.

/s/ George A. O'Toole, Jr.
United States District Judge