

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BOARD OF TRUSTEES SHEET METAL
WORKERS NATIONAL PENSION FUND,

Plaintiffs,

v.

Case Number 11-50073
Honorable David M. Lawson

WG HEATING, LLC and
WINCHESTER LAND, LLC,

Defendants.

**ORDER DENYING EX PARTE MOTION FOR ENTRY OF ORDER MODIFYING
RESTRAINING ORDER AND AUTHORIZING DISBURSEMENT OF GARNISHED
FUNDS**

The matter is before the Court on the plaintiff's *ex parte* motion for entry of order modifying restraining order and authorizing disbursement of garnished funds. The Court finds that it is improper to adjudicate this motion on an *ex parte* basis. All of the parties have a right to notice and an opportunity to be heard. *See Fuentes v. Shevin*, 407 U.S. 67, 90-91 (1972). Therefore, the Court will deny the plaintiff's motion without prejudice. It may be resubmitted as a motion in compliance with the local rules. *See* E.D. Mich. LR 7.1.

Accordingly, it is **ORDERED** that the plaintiff's *ex parte* motion for entry of order modifying restraining order and authorizing disbursement of garnished funds [dkt. #195] is **DENIED WITHOUT PREJUDICE**.

s/David M. Lawson

DAVID M. LAWSON
United States District Judge

Dated: September 2, 2011

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on September 2, 2011.

s/Deborah R. Tofil _____
DEBORAH R. TOFIL