

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

| | | |
|----------------------|---|----------------------|
| VERA L. JOHNSON, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 4:12-CV-2105-RWS |
| |) | |
| PHH MORTGAGE SERVICE |) | |
| CENTER, et al., |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM AND ORDER

This matter is before the Court on plaintiff’s *ex parte* motion for a temporary restraining order ("TRO") [ECF No. 3]. For the reasons stated below, the motion will be denied.

Plaintiff submitted a motion for TRO to the Court without adequately giving notice to the adverse parties.¹ Under Fed. R. Civ. P. 65(b)(1):

The court may issue a temporary restraining order without written or oral notice to the adverse party or its attorney only if:

¹The “Proof of Service by Mail” certificate at the bottom of ECF No. 1-3, page 16 of 16, indicating that the complaint, motion for injunctive relief, and supporting declaration of plaintiff were served by Gregory Bell on Kristin J. Conwell at a St. Louis post office box address on November 10, 2012, is inadequate.


(A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition, and

(B) the movant's attorney certifies in writing any efforts made to give the notice and the reasons why it should not be required.

In the instant case, it does not clearly appear from specific facts shown either by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to plaintiff before the adverse parties or their attorneys can be heard in opposition. Moreover, plaintiff has not certified in writing the reasons why notice should not be required. As a result, the motion will be denied.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's *ex parte* motion for TRO [ECF No. 3] is **DENIED** without prejudice.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 9th day of November, 2012.