

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

LARRY L. HENDERSON, )  
Plaintiff, )  
v. )  
PAUL LISTENBERGER, et al., )  
Defendants. )  
No. 4:15CV480 NCC

## **MEMORANDUM AND ORDER**

This matter is before the Court on plaintiff's *ex parte* motion for a temporary restraining order ("TRO") [ECF No. 7]. 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. 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:

(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 a 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. 7] is **DENIED** without prejudice.

Dated this 8th day of May, 2015.

/s/ Noelle C. Collins  
NOELLE C. COLLINS  
UNITED STATES MAGISTRATE JUDGE