

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

ANTONIO HERNANDEZ-PAZ and MARIA
RODRIGUEZ,

Plaintiffs,

v.

SIERRA PACIFIC MORTGAGE
COMPANY; et al.,

Defendants.

3:12-cv-0058-LRH-WGC

ORDER

Before the court is plaintiffs’ motion for a temporary restraining order. Doc. #1, Exhibit 6.¹

A court may grant a temporary restraining order upon a showing of: (1) irreparable harm to the petitioning party; (2) the balance of equities weighs in petitioner’s favor; (3) an injunction is in the public’s interest; and (4) the likelihood of petitioner’s success on the merits. *See Winter v. Natural Res. Def. Council, Inc.*, 129 S. Ct. 365, 376 (2008) (citations omitted).

Here, plaintiffs contend that they are entitled to a temporary restraining order stopping the pending foreclosure, currently scheduled for February 23, 2012, because defendants did not comply with the strict and mandatory mediation requirements. *See* Doc. #1, Exhibit 6.

The court has reviewed the documents and pleadings on file in this matter and finds that

¹ Refers to the court’s docket entry number.

1 plaintiffs have sufficiently alleged a violation of Nevada's mandatory mediation requirement to
2 enjoin the pending trustee's sale. In their motion, plaintiffs allege that a notice of right to elect
3 mediation was never provided to them with the notice of default in violation of Nevada law. The
4 Nevada Supreme Court has recently held that strict compliance with the Nevada mediation statute,
5 including the notice provisions, is required before a property may be sold at a trustee's sale. *See*
6 *Leyva v. National Default Servicing Company*, 127 Nev. Adv. Op. 40. Therefore, this court shall
7 grant plaintiffs' motion and enjoin the pending trustee's sale.

8
9 IT IS THEREFORE ORDERED that plaintiff's motion for a temporary restraining order
10 (Doc. #1, Exhibit 6) is GRANTED. Defendants are ENJOINED from selling the underlying
11 property at the trustee's sale currently scheduled for February 23, 2012.

12 IT IS SO ORDERED.

13 DATED this 21st day of February, 2012.



14
15
16

LARRY R. HICKS
UNITED STATES DISTRICT JUDGE