

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

STEVEN J. BRADY et al.,

Plaintiffs,

vs.

WELLS FARGO BANK, N.A. et al.,

Defendants.

3:14-cv-00440-RCJ-WGC

ORDER

Plaintiffs sued Defendants in this Court *in pro se* for invasion of privacy, negligent hiring and supervision, and violations of the Fair Credit Reporting Act and the Fair Debt Collection Practices Act. The Court granted Plaintiffs’ motion to proceed *in forma pauperis* and dismissed the Complaint under 28 U.S.C. § 1915, giving Plaintiffs thirty days to file an amended complaint. When Plaintiffs failed to comply, the Court warned them that it would dismiss if no amended complaint were filed by May 29, 2015, which was 278 days after the Court issued the screening order. Plaintiffs did not comply, but the Court granted a motion extending time to June 15, 2015. On June 8, 2015, Plaintiffs filed the present motions for a temporary restraining order and a preliminary injunction, indicating that a foreclosure sale on their real property was scheduled for June 23, 2015.

The Court denies the motions. A temporary restraining order is unavailable. *See* Fed. R. Civ. P. 65 (b)(1). Although the present motions are labeled as “verified,” they are not in fact verified, because they are not sworn, and there is no attached affidavit. The Complaint originally filed was verified, but it has been dismissed and is no longer operative. A preliminary injunction is unavailable because there is no evidence the adverse parties have been notified. *See* Fed. R.

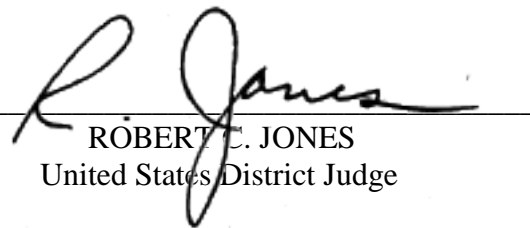
1 Civ. P. 65(a)(1). There is no operative complaint, and there is no evidence the present motions
2 have been served. The “certificates of service” attached to the present motions indicate only that
3 the motions “will be” served, not that they have been served. Those documents are therefore not
4 certificates of service. Finally, the motions indicate an impending foreclosure sale of Plaintiffs’
5 real property, but the original Complaint had nothing to do with any foreclosure. It concerned
6 only credit reporting and debt collection violations, invasion of privacy, and negligent hiring and
7 supervision related thereto. The Court gave leave to amend to correct the deficiencies in those
8 claims. The Court has never given leave to amend to add foreclosure-related claims, and
9 Plaintiffs have not requested it. In any case, Plaintiffs have not made any showing that they have
10 a reasonable chance of success on the merits. They have not shown or even alleged any common
11 law or statutory infirmity with the impending foreclosure sale but have simply asked the Court to
12 enjoin it.
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15 **CONCLUSION**

16 IT IS HEREBY ORDERED that the Motions for Temporary Restraining Order and
17 Preliminary Injunction (ECF Nos. 8, 9) are DENIED.
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19 IT IS SO ORDERED.

20 Dated this 9th day of June 2015.

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22 ROBERT C. JONES
23 United States District Judge
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