

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
NORTHERN DIVISION

CHAD ALBURY,
Plaintiff,

vs.

AMERICA WEST BANK, et al.,
Defendants.

MEMORANDUM DECISION AND
ORDER DENYING PLAINTIFF'S
MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION

Case No. 1:10-CV-197 TS

This matter is before the Court on Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction. Plaintiff seeks to stop the foreclosure sale of his property based on alleged violations of the Truth in Lending Act. For the reasons discussed below, the Court will deny Plaintiff's Motion.

I. BACKGROUND

The following facts are taken from Plaintiff's Complaint and his Motion for Temporary Restraining Order and Preliminary Injunction. On November 5, 2008, Plaintiff entered into a refinance of his primary residence with America West Bank. Plaintiff alleges that, at the time of

closing, he was not provided with a notice of his right to rescind in violation of the Truth in Lending Act¹ and its implementing Regulation Z.² Plaintiff alleges that he has provided a notice of rescission due to the violations of TILA.

II. DISCUSSION

In order for Plaintiff to be entitled to a temporary restraining order, Plaintiff must show: (1) a substantial likelihood of success on the merits; (2) irreparable harm to the movant if the injunction is denied; (3) the threatened injury outweighs the harm that the preliminary injunction may cause the opposing party; and (4) the injunction, if issued, will not adversely affect the public interest.³

Having reviewed the allegations contained in his Complaint, as well as the arguments made in his Motion, the Court finds that Plaintiff has failed to satisfy the high standard required to obtain a temporary restraining order or a preliminary injunction. Therefore, Plaintiff's Motion will be denied.

III. CONCLUSION

It is therefore

ORDERED that Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction (Docket No. 3) is DENIED.


¹15 U.S.C. § 1601 *et seq.*

² 12 C.F.R. § 226.23.

³*General Motors Corp. v. Urban Gorilla, LLC*, 500 F.3d 1222, 1226 (10th Cir. 2007).

DATED November 29, 2010.

BY THE COURT:



TED STEWART
United States District Judge