

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

TIM NOONAN,

Plaintiff,

v.

JOSEPH SCHWEITZER,

Defendant.

Case No. 16-CV-1723-JPS

ORDER

On December 29, 2016, the plaintiff filed this action.¹ The document the plaintiff filed is captioned as follows: "PLAINTIFF'S EX-PARTE NOTICE AND APPLICATION FOR: AN ORDER TO SHOW CAUSE: A TEMPORARY RESTRAINING ORDER RE: A PRELIMINARY INJUNCTION; AND MEMORANDUM OF POINTS AND AUTHORITIES." (Docket #1 at 1). The document begins by asking for a temporary restraining order forbidding the defendant from foreclosing on the plaintiff's home. *Id.* Beyond this request, however, the remainder of the document is in the style of a standard civil complaint. It includes allegations of the parties' citizenship, the Court's jurisdiction, the transactions underlying the action, and twenty-five counts alleging violations of various federal laws. *Id.* at 2-11.

To the extent the document may be construed as a request for a temporary restraining order, as opposed to a standard complaint, it must be denied for two reasons. First, it appears to be barred by the *Rooker-Feldman* doctrine. That rule:

precludes lower federal court jurisdiction over claims seeking review of state court judgments . . . [because] no matter how erroneous or unconstitutional the state court judgment may be,

¹Tim Noonan also names Linda Noonan as a co-plaintiff, but she did not sign the document, and as neither she nor Tim is represented, she cannot be included as a party. *See* Fed. R. Civ. P. 11(a).

the Supreme Court of the United States is the only federal court that could have jurisdiction to review a state court judgment. Therefore, if a claim is barred by the *Rooker-Feldman* doctrine, the federal court lacks subject matter jurisdiction over the case.

Taylor v. Federal Nat. Nortg. Ass'n, 374 F.3d 529, 532 (7th Cir. 2004) (citations and quotations omitted). As applied to this case, *Rooker-Feldman* strips this Court of power to overturn a state court judgment of foreclosure. The Court's research reveals that the defendant sued the plaintiff in Racine County Circuit Court and obtained a judgment of foreclosure on August 31, 2016. *Joseph R. Schweitzer v. Timothy P. Noonan et al.*, 2016-CV-786 (Docket #30). Thus, the *Rooker-Feldman* doctrine precludes the Court from granting the plaintiff the relief he seeks.²

Second, even if *Rooker-Feldman* did not apply, the plaintiff's request falls far short of the showings required for entitlement to a temporary restraining order. As noted by the Seventh Circuit and the U.S. Supreme Court, "[a] preliminary injunction is an extraordinary and drastic remedy, one that should not be granted unless the movant, *by a clear showing*, carries the burden of persuasion." *Goodman v. Ill. Dept. of Fin. and Prof. Reg.*, 430 F.3d 432, 437 (7th Cir. 2005) (quoting *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997)). Temporary restraining orders are assessed using the same standards as used for preliminary injunctions, and require the plaintiff to prove the

²This is not to say that the remainder of the plaintiff's complaint is not also barred by *Rooker-Feldman*. His other claims appear to seek money damages for violations of federal laws occurring at the time of the original land contract transaction. (Docket #1 at 11). Those claims do not seek to stop the effect of the foreclosure judgment as directly as the request for a temporary restraining order. However, they may still be barred if the claims are "inextricably intertwined" with the judgment. *Taylor*, 374 F.3d at 533. Without further briefing and factual development, the Court cannot say whether the other claims are "inextricably intertwined" with the foreclosure judgment.

following elements: (1) his underlying case has some likelihood of success on the merits, (2) no adequate remedy at law exists, and (3) he will suffer irreparable harm without the injunction. *Merritte v. Kessel*, 561 F. App'x 546, 548 (7th Cir. 2014).

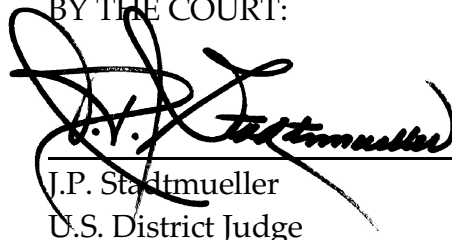
The plaintiff's motion/complaint includes only two statements of those elements, posed merely as legal conclusions. (Docket #1 at 2, 10). He otherwise presents no argument that the elements are present here. Further, the allegations of the complaint portion of the document are not verified, so they cannot function as evidence themselves.³ The Court is left only with the collection of exhibits appended to the motion/complaint, and those documents, standing alone, do not make a clear showing as to any of the elements. *See* (Docket #1-1). The plaintiff's request for a temporary restraining order must, therefore, be denied.

Accordingly,

IT IS ORDERED that the plaintiff's motion for a temporary restraining order (Docket #1) be and the same is hereby **DENIED**.

Dated at Milwaukee, Wisconsin, this 30th day of December, 2016.

BY THE COURT:



J.P. Stadtmueller
U.S. District Judge

³The document supplies blank lines for a notary's signature and stamp, but those lines have been crossed out.