



been made to give the notice and the reasons supporting the party's claim that notice should not be required."

That is, under Rule 65(b) "a court planning to issue a temporary restraining order must be particularly careful that the movant has produced compelling evidence of the threatened irreparable injury and has exhausted all reasonable efforts to give the adverse party notice and an opportunity to be present and introduce evidence at a hearing." Wright, Miller & Kane, Federal Practice and Procedure: Civil 2d §2951. Additionally, MIRC Rule 65(c) provides that "[n]o restraining order or preliminary injunction shall issue except upon the giving of security by the applicant, in such sum as the court deems proper, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained."

#### APPLICATION OF THE LAW

The Court need not determine the question of irreparable harm under Rule 65(b)(1) or security under Rule 65(c), as the Rule 65(b)(2) certification was not given.

The plaintiffs' counsel has not certified what efforts, if any, he has taken to give the defendant notice of the TRO request as is required by Rule 65(b)(2). Nor has the plaintiffs' counsel provided the court with sufficient reason for not giving the defendant notice and an opportunity to be heard. Accordingly, the Court cannot issue the requested TRO.

#### CONCLUSION

For the above reasons, the plaintiffs' request for a TRO is denied. This does not mean that the court will not grant the plaintiffs a preliminary restraining order upon a proper showing. Moreover, this Court sets this matter for preliminary restraining order hearing at 2:00 p.m. on July 17, 2012, before Associate Justice James Plasman.

Date: July 13, 2012.



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Carl B. Ingram  
Chief Justice