

ENTERED

April 17, 2020

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

EDWARD L. SCHERER,

Plaintiff,

v.

WELLS FARGO BANK, N.A.,

Defendant.

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Civil Action No. H-20-1295

ORDER

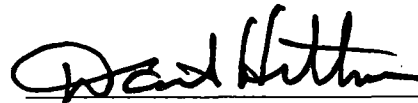
Pending before the Court is Original Class Action Complaint and Motion for Injunctive Relief (Document No. 1). Having considered the motion, submissions, and applicable law, the Court determines the motion should be denied without prejudice.

Federal Rule of Civil Procedure 65 provides “[n]o preliminary injunction shall issue without notice to the adverse party.” Fed. R. Civ. P. 65(a). The notice requirement is mandatory, as it allows both parties to be heard regarding any disputed questions of fact or law. *See Philips v. Charles Schreiner Bank*, 894 F.2d 127, 130–31 (5th Cir. 1990). Within the original complaint, Plaintiff Edward L. Scherer (“Scherer”) moves for a preliminary injunction against Defendant Wells Fargo Bank, N.A. (“Wells Fargo”). Nothing in the record shows Scherer provided Wells Fargo with notice of the request for a preliminary injunction. Furthermore,

Scherer fails to include: (1) sufficient authority for the motion; and (2) a proposed order. *See* S.D. Tex. Local R. 7.1. Accordingly, the Court hereby

ORDERS the Original Class Action Complaint and Motion for Injunctive Relief (Document No. 1) is **DENIED WITHOUT PREJUDICE** as to the request for a preliminary injunction.¹

SIGNED at Houston, Texas, on this 17 day of April, 2020.



DAVID HITTNER
United States District Judge

¹ The Court notes: (1) the complaint is not verified or have an attached affidavit showing immediate and irreparable injury will occur to Scherer before Wells Fargo can be heard; and (2) there is no certification by counsel for Scherer indicating any efforts made to give notice and the reasons why notice should not be required. Therefore, to the extent Scherer seeks a temporary restraining order, that request is also denied without prejudice. *See* Fed. R. Civ. P. 65(b)(1).