

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF MICHIGAN, *et al.*,

Defendants.

CASE NO. 1:12-CV-788

HON. ROBERT J. JONKER

ORDER

Plaintiff United States of America filed this lawsuit today and included a Motion for TRO and Preliminary Injunction (docket # 2). Rule 65 governs the relief requested and generally requires notice to the adverse party. FED. R. CIV. P. 65(a). In rare and unusual cases, the Court may entertain a request for TRO without notice, but this requires both “specific facts in an affidavit or a verified complaint” showing that relief is necessary before giving the adverse party an opportunity to respond, and an attorney’s written certification of efforts to notify the adverse party and why such notice should not be required. FED. R. CIV. P. 65(b). In this case, the United States has not even attempted to meet the standard under Rule 65(b) for an *ex parte* TRO. The Complaint itself is not verified, and the only Declaration that is part of the record does not address the requirements of Rule 65(b)(1)(A). Neither is there an attorney’s certification as required by Rule 65(b)(1)(B). Accordingly, the Motion for TRO is **DENIED**, without prejudice, to the extent it seeks any relief before giving the adverse parties notice and an opportunity to be heard.

The record at this point does not reflect formal service of process on the Defendants. Indeed, a summons has evidently not yet been presented to the Clerk of the Court. Plaintiff should proceed promptly to serve its papers as required by Rule 4, and file the proof of service required by law.

