

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

FLORIDA COASTAL SCHOOL OF
LAW, INC. and INFILAW
CORPORATION,

Plaintiffs,

v.

Case No. 3:18-cv-621-J-39JBT

AMERICAN BAR ASSOCIATION,
COUNCIL OF THE SECTION OF
LEGAL EDUCATION AND
ADMISSIONS TO THE BAR,
AMERICAN BAR ASSOCIATION,
and ACCREDITATION COMMITTEE
OF THE SECTION OF LEGAL
EDUCATION AND ADMISSIONS TO
THE BAR, AMERICAN BAR
ASSOCIATION,

Defendants.

ORDER

THIS CAUSE is before the Court on Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction (Doc. 18) filed June 15, 2018. The Motion was preceded by Plaintiffs' Complaint (Doc. 1) filed May 10, 2018.

Upon review, it appears that Plaintiffs have served Defendants a copy of their Complaint. (Doc. 10; May 14, 2018 Aff. Of Service). In moving for a temporary restraining order (TRO), Plaintiffs must satisfy the requirements of the Federal Rules of Civil Procedure, and the Local Rules of the United States District Court for the Middle District of Florida ("Local Rule(s)") as they pertain to temporary restraining orders. Relevant to this case, when a party seeks a temporary restraining order,

Local Rule 4.05(b)(2) requires a showing that “not only that the moving party is threatened with irreparable injury, but that such injury is so imminent that notice and a hearing on the application for preliminary injunction is impractical if not impossible.” Additionally, Local Rule 4.05(3) requires a proposed form of TRO, which includes a precise description of the conduct to be enjoined, as well as a basis from which the Court can make a reasonable calculation of security to be posted by the movant.

In this case, Plaintiffs' Motion makes two requests for relief: one in the form of a TRO; and one in the form of a preliminary injunction. Motion at 29. The request for a TRO complies with Rule 4.05(3) inasmuch as it includes a proposed form of TRO with a precise description of the conduct it seeks to have enjoined. The description is found in Docket Entry 19.2 at page 2 and reads as follows:

Defendants are ENJOINED from requiring Florida Coastal School of Law each semester, within 30 days of the completion of the assignment and distribution of semester grades for the Law School's students, from advising each law student, in writing, of the following, in the same communication: (a) the Florida and Georgia first-time bar examination passage rates, by class quartiles, for Law School graduates sitting for the Florida and Georgia bar examinations over the six administrations preceding the semester; (b) the class quartile in which the student then falls; and (c) attrition rates.

(Doc. 19.2 at 2). While time is certainly short and the risk of harm potentially imminent, Plaintiffs have failed to make a showing that Defendants should not be provided notice and an opportunity to respond before the Court makes its decision on the merits. Additionally, Plaintiffs have failed to offer evidence and argument in

support of an appropriate bond amount. Accordingly, the Motion for Temporary Restraining Order is due to be denied.¹

As to their request for a preliminary injunction, Plaintiffs described the conduct sought to be enjoined but they did not submit a proposed order. Motion at 29. Additionally, Plaintiffs failed to include sufficient information from which the Court could determine an appropriate bond amount. That said, the Court understands the time-sensitive nature of this case and will set an expedited briefing schedule for consideration of a preliminary injunction. In light of the tight deadlines the Court will impose, any non-compliance by Plaintiffs may result in the delay or denial of their request for preliminary injunction. The Court will consider Plaintiffs' request to have the conduct described in their request for TRO under the standards applicable to a preliminary injunction.²

After due consideration, it is

ORDERED:

¹ The Court's identification of certain deficiencies in the instant Motion is intended to cite only examples, and should not be interpreted as determining whether all other requirements have been satisfied. Instead, counsel is instructed to review Federal Rule of Civil Procedure 65 and the Local Rules to assure that any amended or supplement filing is in full compliance. That said, the Court does not believe an amendment of Plaintiffs' request for a TRO can be remedied in light of the service already effected on Defendants and the passage of time since this case was originally filed.

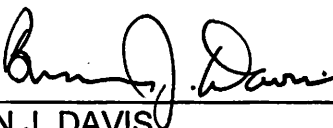
² In accordance with Local Rule 4.06, a preliminary injunction may not be issued absent notice, which must be given at least fourteen (14) days in advance of the hearing on the matter. Based upon the facts and circumstances of this case, the Court, in its discretion, waives the time requirements of Local Rule 4.06. See Flour Intercontinental, Inc. v. IAP Worldwide Servs., Inc., 533 F. App'x 912, 922 n.35 (11th Cir. 2013) (“[A] district court has discretion to waive or excuse noncompliance with its local rules.”).

1. Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction (Doc. 18) is **TAKEN UNDER ADVISEMENT**.
2. On or before **June 20, 2018 at 1:00 p.m.**, Plaintiffs must supplement their Motion, in a filing not to exceed five substantive pages, to comply with all applicable rules of procedure.
3. On or before **June 25, 2018**, Defendants shall respond, in no more than thirty (30) substantive pages, to Plaintiffs' Motion.
4. This matter is set for **HEARING** on Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction (Doc. 18) on **Friday, June 29, 2018, at 10:00 a.m.** before the undersigned at the Bryan Simpson United States Courthouse, 300 North Hogan Street, Courtroom 12C, Twelfth Floor, Jacksonville, Florida 32202. Counsel for Plaintiffs and Defendant shall appear in person and telephonic appearances will not be permitted.³
5. The hearing will be conducted in accordance with Rule 65 and Local Rule 4.06. This case does not appear to involve the exceptional situation wherein the Court anticipates submission of evidence at the hearing. See Local Rule 4.06(b). The parties shall state, in their respective filings,

³ All persons entering the Courthouse must present photo identification to the Court Security Officers. Although cell phones, laptop computers, and similar electronic devices generally are not permitted in the building, attorneys may bring those items with them upon presentation to the Court Security Officers of a Florida Bar card (presentation of the Duval County Courthouse lawyer identification card will suffice) or Order of special admission pro hac vice, as well as a copy of this Order. However, all cell phones must be turned off while in the courtroom

whether they believe an evidentiary hearing is necessary. Unless otherwise ordered, the hearing will be limited to the written submissions and arguments of counsel.⁴

DONE and **ORDERED** in Jacksonville, Florida this 18th day of June, 2018.



BRIAN J. DAVIS
United States District Judge

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Copies furnished to:

Counsel of Record

⁴ Plaintiffs shall state any need for an evidentiary hearing in their supplement to their Motion.