

STATE OF MICHIGAN  
IN THE 17th CIRCUIT COURT FOR KENT COUNTY

PIONEER CABINETRY, INC.,

Plaintiff,

Case No. 18-00656-CBB

vs.

HON. CHRISTOPHER P. YATES

BRADLEY D. RIEMER, TIMBERLAND  
BUILDING AND DEVELOPING  
COMPANY, INC.; and RANDY C.  
JOPPIE,

Defendants.

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ORDER DENYING *EX PARTE* TEMPORARY RESTRAINING ORDER

The Specialized Business Docket is chock-full of surprises. For example, on June 27, 2019, Defendant Bradley Riemer filed a post-judgment motion seeking an *ex parte* temporary restraining order to block the distribution of funds held in trust. On March 19, 2018, the Court issued a default judgment against all of the defendants for \$31,834.10 on a breach-of-contract claim, \$82,930.36 on a conversion claim, and \$27,841.54 on a claim under the Michigan Builders Trust Fund Act. Soon thereafter, Plaintiff Pioneer Cabinetry, Inc. (“Pioneer”) began collection efforts. To say that those efforts have been extensive would be an understatement. Throughout the collection process, several attorneys have come and gone, but Pioneer has remained unrelenting.

On May 29, 2019, Plaintiff Pioneer sought writs of garnishment against Margaret Riemer and two entities, *i.e.*, RBR Builders LLC and Star Title Agency, LLC, but those requests prompted the motion from Defendant Riemer that is currently before the Court. According to Riemer’s motion for a temporary restraining order, he entered into an agreement with Pioneer on August 27, 2018, that

provided him with a promise of forbearance from collection efforts in exchange for his promise to make periodic payments on the judgment debt to Pioneer. See Defendant Riemer's Motion, Exhibit B (Payment Agreement). According to Riemer, the garnishment aimed at his wife is an improper attempt to seize the proceeds from the sale of the Riemers' house. But it gets more confusing!


Defendant Riemer insists that the law firm purportedly representing Plaintiff Pioneer in this recent collection effort does not actually represent Pioneer, but instead has represented another one of the judgment debtors, Defendant Randy Joppie, and is now trying impermissibly to step into the shoes of Pioneer to obtain money from Riemer and his wife to pass on to Joppie. On May 31, 2019, almost immediately after the clerk's office issued the garnishments on May 29, 2019, the Riemers and Pioneer's purported legal counsel signed an agreement to place into a trust account \$82,930.36 from the sale of the Riemers' house and maintain that money in trust for 30 days. Of course, nobody bothered to share any of the details of this odd arrangement with the Court until June 27, 2019, when Riemer sought an *ex parte* temporary restraining order just as the 30-day period was about to expire. And, of course, everything was thrown at the Court on an emergency *ex parte* basis with a demand for action on the spot.

Before the Court could act on Defendant Riemer's *ex parte* motion, Plaintiff Pioneer filed a response on June 28, 2019, adding the competing arguments to this truly bizarre dispute. Pioneer – through its new counsel that Riemer finds objectionable – has provided the Court with an affidavit from Lawrence Fox, the president of Pioneer, stating that Riemer “breached the Payment Agreement by failing to make payments as required.” That affidavit leaves no doubt that Pioneer is well-aware of the most recent collection effort, that Pioneer believes it has the right to proceed with collection because Riemer breached the agreement with Pioneer that afforded him forbearance, and that the law

firm representing Pioneer in its most recent collection effort has authority to act in this matter. Thus, the Court has no basis whatsoever to issue an *ex parte* temporary restraining order pursuant to MCR 3.310(B). Riemer appears unlikely to prevail on the merits because the most recent collection effort did not begin until after he breached his payment obligation under the forbearance agreement, there is no risk of irreparable harm because the money obtained through collection or garnishment can be returned to Riemer if he ultimately obtains a court order directing the return of the money after the parties can participate in a contested hearing, and the public interest in the issuance of a temporary restraining order here is negligible, at best. See Davis v City of Detroit Financial Review Team, 296 Mich App 568, 613-614 (2012). Accordingly, the Court shall deny Riemer's motion for an *ex parte* temporary restraining order and set the matter for a contested hearing at the earliest possible date.

IT IS SO ORDERED.

Dated: July 1, 2019

  
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HON. CHRISTOPHER P. YATES (P41017)  
Kent County Circuit Court Judge