

STATE OF MICHIGAN
MACOMB COUNTY CIRCUIT COURT

VFP ASSET FUNDING, LLC,

Plaintiff,

vs.

Case No. 2016-1078-CB

STTS, INC. and SCOTT
PRODUCTS, INC,

Defendants.

OPINION AND ORDER

Plaintiff has filed a motion for an ex parte temporary restraining order and for possession of property pending final judgment. MCR 3.105(E) governs motions for possession pending final judgment. MCR 3.105(E) provides:

(1) Motion for Possession Pending Final Judgment. After the complaint is filed, the plaintiff may file a verified motion requesting possession pending final judgment. The motion must

- a. Describe the property to be seized, and
- b. State sufficient facts to show that the property will be damaged, destroyed, concealed, disposed of, or used as to substantially impair its value, before final judgment unless the property is taken into custody by court order.

In its motion, Plaintiff has described various property that it contends it is entitled to have seized. However, Plaintiff has failed to state facts showing that the property at issue will be damaged, destroyed, concealed, disposed of, or used as to substantially impair its value before final judgment. Rather, Plaintiff merely states that it "reasonably fears that the [property at issue] will be damaged, destroyed, concealed, disposed of and/or used so as to substantially impair its value..." (See Plaintiff's Motion, at ¶ 11.)

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Plaintiff does not provide any explanation to support that it has a reasonable fear, much less to satisfy the requirement that it show the property will be damaged, destroyed, concealed, disposed of and/or used so as to substantially impair its value as required by the court rule. As a result, Plaintiff's motion must be denied.

Conclusion

For the reasons set forth above, Plaintiff's motion for possession pending final judgment is DENIED. Pursuant to MCR 2.602(A)(3), this Opinion and Order neither resolves the last pending claim nor closes the case.

IT IS SO ORDERED.

Date: ~~7/17~~ - 1 2016

Kathryn A. Viviano
Kathryn A. Viviano, Circuit Court Judge