

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
VIRGINIA, HARRISONBURG DIVISION

Kimberly Wood v. Bank of America N.A. et al.

Wood · No. 5:26-cv-00023 · Decided April 1, 2026

SUMMARY

The United States District Court for the Western District of Virginia grants Kimberly Wood’s motion to proceed in forma pauperis but denies her emergency motion for a temporary restraining order and preliminary injunction. The court concludes that the requested relief against Capital One Auto Finance concerns claims unrelated to the underlying foreclosure action and that Wood has not shown a likelihood of success on the merits or actual and imminent irreparable harm.

CASE DETAILS

COURT	United States District Court for the Western District of Virginia, Harrisonburg Division
WRITING FOR THE COURT	Jasmine H. Yoon
JURISDICTION	United States District Court for the Western District of Virginia, Harrisonburg Division
DECIDED	April 1, 2026
DOCKET	5:26-cv-00023
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for leave to proceed in forma pauperis and for an emergency temporary restraining order and preliminary injunction barring Capital One Auto Finance from repossessing her vehicle. The district court granted in forma pauperis status and denied injunctive relief.
STANDARD OF REVIEW	A temporary restraining order or preliminary injunction requires a clear showing that the plaintiff is likely to succeed on the merits, likely to suffer irreparable harm without relief, that the balance of equities favors relief, and that an injunction is in the public interest. Failure to establish one factor warrants denial, and the court need not mechanically consider all four factors when one is clearly absent.
PRECEDENTIAL VALUE	unpublished district court memorandum opinion and order

PARTIES

Kimberly Wood v. Bank of America N.A., Nationstar Mortgage LLC d/b/a Champion Mortgage Company, U.S. Department of Housing and Urban Development, Compu Link, Cohn, Goldberg & Deutsch, John Does 1–10

TOPICS

injunctions civil procedure real estate bankruptcy remedies

PRACTICE AREAS

civil procedure injunctive relief real property secured transactions bankruptcy

QUESTIONS PRESENTED

1. Whether Wood could obtain a temporary restraining order or preliminary injunction against Capital One Auto Finance when Capital One was not a party and the proposed injunction concerned claims unrelated to the underlying action.
2. Whether Wood demonstrated a likelihood of success on the merits and a likelihood of irreparable harm sufficient to support preliminary injunctive relief.

HOLDINGS

1. A plaintiff may not obtain a preliminary injunction based on new claims unrelated to the complaint or against an entity that is not a party to the action. Wood therefore could not obtain relief against Capital One Auto Finance based on the vehicle-repossession allegations.
2. Wood failed to establish entitlement to a temporary restraining order or preliminary injunction because she did not show a likelihood of success on the merits or a likelihood of irreparable harm.
3. Wood failed to show a likelihood of success on her due-process and other constitutional claims because she did not allege government involvement, and private entities are generally not subject to constitutional claims absent state action.

KEY QUOTATIONS

“A temporary restraining order (“TRO”) or preliminary injunction under Federal Rule of Civil Procedure 65 is an “extraordinary remed[y]” that should be granted “only sparingly and in limited circumstances.”” (at 2)

“Preliminary injunctive relief “may only be awarded upon a clear showing that the plaintiff is entitled to relief.”” (at 2)

“Because Wood has clearly failed to satisfy the first and second Winter factors, the court need not consider the remaining factors.” (at 5)

FACTUAL BACKGROUND

Wood's amended complaint concerns an inherited property, an allegedly unenforceable Home Equity Conversion Mortgage loan, and an allegedly defective deed of trust. Her later emergency motion instead sought to prevent Capital One Auto Finance from repossessing her 2021 Ram 1500 truck. Wood alleged that Capital One threatened a possible repossession and cited bankruptcy, partial payments, account-access problems, and Virginia's prohibition on repossession by breach of the peace, but she did not allege that Capital One had repossessed the vehicle or that repossession was actual and imminent.

PROCEDURAL HISTORY

Wood originally filed the action in the Circuit Court of Shenandoah County, Virginia, on December 1, 2025. Nationstar removed the action to the Western District of Virginia on February 17, 2026, before it had been served. Wood later moved to enjoin Capital One Auto Finance from repossessing a vehicle, although Capital One was not named as a defendant and was not implicated in the claims in the amended complaint.

DISPOSITION

other

CASES CITED

- Dires Israel, Ltd. v. Breakthrough Medical Corp., 952 F.2d 802, 812, 816 (4th Cir. 1991)
- Variable Annuity Life Insurance Co. v. Coreth, 535 F. Supp. 3d 488, 501 (E.D. Va. 2021)
- Winter v. Natural Resources Defense Council, Inc., 555 U.S. 7, 20, 22 (2008)
- Maages Auditorium v. Prince George's County, 4 F. Supp. 3d 752, 760 n.1 (D. Md. 2014), aff'd, 681 F. App'x 256 (4th Cir. 2017)
- American Federation of Teachers v. Bessent, 152 F.4th 162, 169 (4th Cir. 2025)
- Erickson v. Pardus, 551 U.S. 89, 94 (2007)
- Weller v. Department of Social Services for City of Baltimore, 901 F.2d 387, 391 (4th Cir. 1990)
- Imagine Medispa, LLC v. Transformations, Inc., 999 F. Supp. 2d 862, 867 (S.D.W. Va. 2014)
- Abdullah-Malik v. Bryant, No. 1:14-cv-00109, 2015 WL 225740, at *3 (D.S.C. Jan. 16, 2015)
- Rutledge v. Town of Chatham, No. 4:10-cv-00035, 2010 WL 3835662, at *3 (W.D. Va. Sept. 30, 2010), aff'd sub nom. Rutledge v. Roach, 414 F. App'x 568 (4th Cir. 2011)
- Stout v. Meletis, No. 3:09-cv-00538, 2011 WL 1167471, at *1 n.1 (E.D. Va. Mar. 24, 2011)
- Cooper v. South Carolina, No. CV 3:17-3205, 2017 WL 6388042, at *3 (D.S.C. Dec. 14, 2017)
- Brentwood Academy v. Tennessee Secondary School Athletic Association, 531 U.S. 288, 295 (2001)
- Hurt v. G.C. Murphy Co., 800 F.2d 260, 1986 WL 17434, at *1 (4th Cir. Sept. 11, 1986) (unpublished table opinion) (per curiam)
- Di Biase v. SPX Corp., 872 F.3d 224, 230 (4th Cir. 2017)
- Tucker Anthony Realty Corp. v. Schlesinger, 888 F.2d 969, 975 (2d Cir. 1989)
- Henderson for NLRB v. Bluefield Hospital Co., LLC, 902 P.3d 432, 439 (4th Cir. 2018)

OPINION

April 01, 2026 Br ADA IN THE UNITED STATES DISTRICT COURT DEPUTY CLERK POR THE WESTERN DISTRICT OF VIRGINIA HARRISONBURG DIVISION Kimberly Wood,) Plaintiff, v. Civil Action No. 5:26-cv-00023 Bank of America N.A. ef a/, Defendants. MEMORANDUM OPINION AND ORDER This matter is before the court on pro se Plaintiff Kimberly Wood's emergency motion for a temporary restraining order and preliminary injunction against "Capitol One Auto Finance" ("Capital One"), (Dkt.

17), and motion for leave to proceed i forma pauperis, (Dkt. 8). Based on Wood's representations in her application, the court will grant her motion for leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a)(1). (kt. 8.) Additionally, for the following reasons, the court will deny Wood's motion for a temporary restraining order and preliminary injunction.

Wood filed this action in the Circuit Court of Shenandoah County on December 1, 2025. (Dkt. 1 at 1.) On February 17, 2026, Defendant Nationstar Mortgage LLC d/b/a Champion Mortgage Company ("Nationstar"), who had not yet been served with Wood's state court complaint, removed the suit from the Virginia state court to this court. (id at 1-2.) Wood's amended complaint alleges a series of claims against Defendants Bank of America; Nationstar; U.S. Department of Housing and Urban Development; Compu Link; Cohn, Goldberg & Deutsch; and "John Does 1-10." (See Dkt.

1-2 at 1.) Wood alleges that the real property she inherited from her mother is subject to an "unenforceable" Home Equity Conversion Mortgage ("HECM") loan and a "defective" deed of trust, such that any foreclosure attempt is "void."¹ (Id. ¶¶ 9-21.) Several months later, on March 16, 2026, Wood filed a motion "for an Emergency Temporary Restraining Order... to enjoin Capitol On[e] Auto Finance from repossessing [her] auto mobile (2021 Ram 1500 truck)." (Dkt.

17 at 1.) On the same day, she submitted a proposed summons and USM-285 Process Receipt and Return Form for service of "Capitol One Auto Finance Inc." (See Dkts. 16, 16-1.) Prior to March 16, Wood had neither named Capital One Auto Finance as a defendant in this case nor made any claims or allegations against this entity. A temporary restraining order ("TRO") or preliminary injunction under Federal Rule of Civil Procedure 65 is an "extraordinary remed[y]" that should be granted "only sparingly and in limited circumstances." *Direx Israel, Ltd. v. Breakthrough Med.*

Corp., 952 F.2d 802, 816 (4th Cir. 1991) (cleaned up); see *Variable Annuity Life Ins. Co. v. Coreth*, 535 F. Supp. 3d 488, 501 (E.D. Va. 2021). Preliminary injunctive relief "may only be awarded upon a clear showing that 1 This is not the first time that Wood has filed in this court concerning the HECM loan and foreclosure of this property.

In December of 2025, Wood filed a complaint and motion for preliminary injunction against many of same defendants. (Pl.'s Mot. for Prelim. Inj., *Wood v. Cohn, Goldberg & Deutsch LLC et al.*, No. 5:25-cv-00135 (W.D. Va. Dec. 4, 2025), Dkt. 3.)

The court denied the motion and dismissed the case without prejudice for failing to state a claim. (Mem. Op. & Order, Wood v. Cohn, Goldberg & Deutsch LLC et al., No. 5:25-cv-00135 (W.D. Va. Dec. 8, 2025), Dkt. 5.) Wood also filed a nearly identical lawsuit in this court on January 20, 2026, in which she later filed the exact same emergency motion as the one currently before the court.

(See Em. Mot. for TRO & Prelim. Inj., Wood v. Bank of America N.A. et al., No. 5:26-cv-00008 (W.D. Va. Jan. 20, 2026), Dkt. 19.) - 2 - the plaintiff is entitled to relief.” Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 22 (2008) (cleaned up). Specifically, a plaintiff seeking a TRO or preliminary injunction must demonstrate (1) that she is likely to succeed on the merits; (2) that she is likely to suffer irreparable harm without preliminary relief; (3) that the balance of equities tips in her favor; and (4) that an injunction is in the public interest.

Winter, 555 U.S. at 20; see Maages Auditorium v. Prince George’s Cnty., 4 F. Supp. 3d 752, 760 n.1 (D. Md. 2014), aff’d, 681 F. App’x 256 (4th Cir. 2017) (“The standard for a temporary restraining order is the same as a preliminary injunction.”).

The plaintiff’s failure to establish just one factor warrants the denial of relief. See Am. Fed’n of Tchrs. v. Bessent, 152 F.4th 162, 169 (4th Cir. 2025). Because Wood is proceeding pro se, the court must liberally construe her filings while applying these standards. See Erickson v. Pardus, 551 U.S. 89, 94 (2007).

However, liberal construction “does not transform the court into an advocate” for a pro se litigant. Weller v. Dep’t of Soc. Servs. for City of Baltimore, 901 F.2d 387, 391 (4th Cir. 1990). In her motion, Wood makes a series of vague and disjointed allegations about the “fraud and theft” underlying the HECM loan, her exhaustion of savings on “ineffective counsel” and “essential repairs” of the house, and her separate bankruptcy proceeding.

(Dkt. 17 at 2.) Wood states that Capital One was notified of her filing for bankruptcy protection, but that the bankruptcy was later “removed,” and that she “has demonstrated continuous good faith by making partial payments” to Capital One. (Id.) Then, she asserts that Capital One has locked her out of her online account and stopped communicating with her via mail - 3 - or email.

(Id. at 3.) She alleges that Capital One “threaten[s] a ‘stealth’ repossession” of her car at her home or place of employment, “without the opportunity for [Wood] [t]o raise ‘Breach of Peace’ objection.” (Id.) First, Wood’s claims against Capital One for potential repossession of her car appear to be entirely distinct from her claims alleged in the underlying suit.

See Imagine Medispa, LLC v. Transformations, Inc., 999 F. Supp. 2d 862, 867 (S.D.W. Va. 2014) (“[N]ew claims unrelated to the allegations contained in the complaint cannot serve as the basis for a preliminary injunction.”).

In fact, Wood had not made any allegations about Capital One prior to the instant motion, and she only now seeks to name the entity as a defendant. Because Wood fails to show that Capital One has any role in the quiet title action, foreclosure issues, statutory violations, and constitutional violations mentioned in her amended complaint, (see Dkt. 1-2 at 5–8), she cannot ask the court to enjoin this non-party.² See *Abdullah-Malik v. Bryant*, No. 1:14- cv-00109, 2015 WL 225740, at *3 (D.S.C.

Jan. 16, 2015) (“[T]o the extent he seeks to enjoin persons who are not parties to this lawsuit, Plaintiff’s motion is improper.”). Even if the claims were related and Capital One had been named as a defendant in this suit, Wood provides no legal basis for her claims against Capital One and thus fails to show a likelihood of success on the merits. Wood briefly mentions a “lack of due process,” but does not make a single further allegation to support a constitutional claim.

(Dkt. 17 at 3.) In fact, ² Wood also cannot add new allegations or defendants without amending her complaint. See *Rutledge v. Town of Chatham*, No. 4:10-cv-00035, 2010 WL 3835662, at *3 (W.D. Va. Sept. 30, 2010), *aff’d sub nom. Rutledge v. Roach*, 414 F. App’x 568 (4th Cir. 2011) (“[T]he Plaintiff cannot add a Defendant without amending his Complaint, which he has not done.”).

Moreover, Wood may not “join multiple defendants into a single lawsuit where the claims against the defendants are unrelated.” *Stout v. Meletis*, No. 3:09-cv-00538, 2011 WL 1167471, at *1 n.1 (E.D. Va. Mar. 24, 2011); see *Cooper v. South Carolina*, No. CV 3:17-3205, 2017 WL 6388042, at *3 (D.S.C. Dec. 14, 2017); Fed. R. Civ. P. 21. - 4 - private entities like Capital One Auto Finance are not subject to suit for due process claims and other constitutional violations absent government involvement.

See *Brentwood Acad. v. Tennessee Secondary Sch. Athletic Ass’n*, 531 U.S. 288, 295 (2001); *Hurt v. G.C. Murphy Co.*, 800 F.2d 260, 1986 WL 17434, at *1 (4th Cir. Sept. 11, 1986) (unpublished table opinion) (per curiam). She also cites Virginia Code § 8.9A-609, (see Dkt. 17 at 3), which is a state statutory provision that regulates a secured party’s right to take possession of equipment after default.

The statute requires a secured party to “proceed[] without breach of the peace” when repossessing collateral without judicial process. Va. Code Ann. § 8.9A-609(b)(2). However, Wood does not allege that Capital One has even taken possession of her vehicle, much less committed a breach of the peace. Wood is unable to make a clear showing that she is likely to succeed on the merits of her vague claims.

Additionally, Wood does not show that she is likely to suffer irreparable harm in the absence of a preliminary injunction. To satisfy the second Winter factor, “a plaintiff must demonstrate more

than just a possibility of irreparable harm.” *Di Biase v. SPX Corp.*, 872 F.3d 224, 230 (4th Cir. 2017) (internal quotation marks omitted).

The irreparable harm alleged must be “neither remote nor speculative, but actual and imminent.” *Direx Israel, Ltd. v. Breakthrough Med. Corp.*, 952 F.2d 802, 812 (4th Cir. 1991) (quoting *Tucker Anthony Realty Corp. v. Schlesinger*, 888 F.2d 969, 975 (2d Cir. 1989)). Wood merely alleges that her car “is vulnerable to ‘stealth’ repossession” at some unspecified time.

(*Id.* at 3.) She does not allege any facts to suggest that this potential repossession is actual and imminent. - 5 - Because Wood has clearly failed to satisfy the first and second *Wznter* factors, the court need not consider the remaining factors. See *Henderson for NLRB v. Bluefield Hosp. Co., LLC*, 902 P.3d 432, 439 (4th Cir. 2018) (holding that a district court need not “mechanically consider all four Winter factors if one is clearly absent”).

Wood does not establish her entitlement to the extraordinary relief of a TRO. Furthermore, to the extent that Wood asks for a preliminary injunction, the court will deny the motion for the same reasons it denies the TRO, including the fact that Wood seeks preliminary injunctive relief against a non-party. IV. Conclusion and Order Por the foregoing reasons, Wood’s motion for temporary restraining order and preliminary injunction, (Dkt.

17), is DENIED. Wood’s motion for leave to proceed *forma pauperis* pursuant to 28 U.S.C. § 1915(a)(1), (Dkt. 8), is GRANTED. The Clerk is directed to send a copy of this Order to Plaintiff and all counsel of record. IT IS SO ORDERED. ENTERED this Ist_ day of April, 2026. HON. JASMINE H. YOON UNITED STATES DISTRICT JUDGE _6-