

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**KBW INVESTMENT PROPERTIES,
LLC**

Plaintiff,

v.

SECRETARY ALEX AZAR, et al.,

Defendants.

Case No. 2:20-cv-4852

Judge James L. Graham

Magistrate Judge Kimberly A. Jolson

ORDER

This matter is before the Court for consideration of Plaintiff’s Motion for Temporary Restraining Order and Preliminary Injunction (ECF No. 3) filed by Plaintiff KBW Investment Properties, LLC and several motions to quash filed by non-parties to this case concerning subpoenas issued by Plaintiff. (ECF Nos. 8, 12–14.)

On September 4, 2020, the Centers for Disease Control and Prevention (“CDC”), an agency of the U.S. Department of Health and Human Services, issued an order temporarily halting residential evictions through December 31, 2020. 85 Fed. Reg. 55292. The CDC issued its Order pursuant to Section 361 of the Public Health Service Act, 42 U.S.C. § 264 and 42 C.F.R. § 70.2.

On September 14, 2020, the Franklin County Municipal Court issued an order staying the set out of Plaintiff’s tenant, Defendant Cassandra King, until the expiration of the CDC’s Order on December 31, 2020.

On September 16, 2020, Plaintiff filed this action, along with its Motion for Temporary Restraining Order and Preliminary Injunction.

On September 25, 2020, the Court held a preliminary telephone conference pursuant to S.D. Ohio Civ. R. 65.1(a) to address the motions pending before the Court.

During the telephone conference, the Court determined that it is too early to assess Plaintiff's likelihood of success on the merits. The Court further determined that Plaintiff has not demonstrated that enforcement of the CDC's Order will cause it irreparable harm. Instead, the CDC's Order merely postpones Plaintiff's collection of debt until after its expiration. For this reason, Plaintiff will not suffer irreparable harm if a TRO is not issued, and the Court **DENIES IN PART** Plaintiff's motion (ECF No. 3) as to its request for a TRO.

Although the Court denies Plaintiff's request for a TRO, it will set Plaintiff's motion for an expedited hearing on Plaintiff's request for preliminary injunction. This hearing will be consolidated with an adjudication on the merits under Fed. R. Civ. P. 65(a)(2) and is set for Thursday, October 15, 2020 at 1:00 PM. The parties' briefs are due on Monday, October 12, 2020, and any replies will be filed no later than 9:00 AM on October 15, 2020.

The Court will **GRANT** the motions to quash (ECF Nos. 8, 12–14), as Plaintiff's subpoenas are premature, issued to non-parties to this case, and will not assist the Court with this case at this time. The Court **ORDERS** Plaintiff to not issue any further subpoenas without first seeking the Court's permission.

IT IS SO ORDERED.

/s/ James L. Graham
JAMES L. GRAHAM
United States District Judge

DATE: September 25, 2020