

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

U, INCORPORATED,

Plaintiff,

v.

Case No.14-2287 -JTM

SHIPMATE, INC. and COORDINATING
COMMITTEE FOR AUTOMOTIVE REPAIR,

Defendants.

MEMORANDUM AND ORDER

This case is before the court on Plaintiff U, Incorporated's Motion for Temporary Restraining Order and Preliminary Injunction (Dkt. 3). Plaintiff filed the motion on June 16, 2014. On June 19, 2014, the court held a hearing on the motion and took it under advisement. (Dkt. 17). The parties attempted to mediate the matter, but then proceeded with the litigation. The court now denies the motion without prejudice.

A party seeking a preliminary injunction pursuant to FED. R. CIV. P. 65 must prove:

"(1) [it] will suffer irreparable injury unless the injunction issues; (2) the threatened injury . . . outweighs whatever damage the proposed injunction may cause the opposing party; (3) the injunction, if issued, would not be adverse to the public interest; and (4) there is substantial likelihood of success on the merits."

Schrier v. University of Colo., 427 F.3d 1253, 1258 (10th Cir. 2005).

Here, plaintiff informed the court at a scheduling conference on December 19, 2014, that it no longer intends to pursue injunctive relief unless conditions change. (Dkt. 59). Therefore, plaintiff fails to prove irreparable harm at this time.

IT IS ACCORDINGLY ORDERED this 20th day of January, 2015, that plaintiff's Motion (Dkt. 3) is DENIED without prejudice.

s\ J. Thomas Marten
J. THOMAS MARTEN, JUDGE