

Court Granted Mandamus Relief To Vacate A Temporary Restraining Order In A Fiduciary Case

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In *In re Sanchez*, a plaintiff filed suit against a defendant for (1) conspiracy; (2) fraud and conspiracy to commit fraud; (3) aiding and abetting/conspiracy; (4) breach of fiduciary duty; and (5) Texas Theft Liability Act Violation related to the property. No. 14-23-00169-CV, 2023 Tex. App. LEXIS 1746 (Tex. App.—Houston [14th Dist.] March 17, 2023, original proceeding). The plaintiff obtained a temporary restraining order regarding real property and it expired. The plaintiff then sought and obtained a second temporary restraining order. The defendant opposed both, and filed a mandamus action regarding the second restraining order. The court of appeals explained:

"Rule 680 provides in relevant part: "[E]very temporary restraining order granted without notice . . . shall expire by its terms within such time after signing, not to exceed fourteen days, as the court fixes, unless within the time so fixed the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the extension shall be entered of record. No more than one extension may be granted unless subsequent extensions are unopposed." *Id.* The Texas Supreme Court has held that "Rule 680 governs an extension of a temporary restraining order, whether issued with or without notice, and permits but one extension for no longer than fourteen days unless the restrained party agrees to a longer extension." *In re Tex. Nat. Res. Conservation Comm'n*, 85 S.W.3d 201, 204-05 (Tex. 2002) (orig. proceeding). The short duration allowed by Rule 680 is "a critical safeguard against the harm occasioned by a restraint on conduct that has yet to be subject to a truly adversarial proceeding." *Id.* at 206-07. Mandamus is available for temporary restraining orders that violate the time limitations of Rule 680. *Id.* at 207."

Id. Based on this authority, the court held that the trial court abused its discretion in entering the second temporary restraining order and granted mandamus relief:

"Although Judge Thornton's order signed March 9, 2023 is not styled as a second temporary restraining order, it is undisputed that the effect on the parties is the same. "The supreme court has interpreted the requirements of Rule 680 in such a way as to not permit a party to

continually request temporary restraining orders without requiring the party to meet the more stringent requirements of obtaining a temporary injunction.” In re 2500 W. Loop, Inc., No. 14-18-00770-CV, 2018 WL 4523935, at *3 (Tex. App.—Houston [14th Dist.] Sept. 21, 2018) (orig. proceeding). The March 9, 2023 order granting a second TRO does not comply with the requirements of Rule 680. Judge Thornton’s issuance of the March 9, 2023 TRO was an abuse of the ancillary judge’s discretion.”

Id.

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