

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Andrejev v. Trotsiouk

Andrejev · No. 2:25-cv-01394-DC-CSK PS · Decided August 28, 2025

SUMMARY

The United States Magistrate Judge recommends denying Galina V. Andrejev’s motion for a temporary restraining order seeking immediate access to her elderly mother. The recommendation concludes that the motion failed to satisfy the notice and proposed-order requirements of Federal Rule of Civil Procedure 65(b)(1) and Eastern District of California Local Rule 231. The parties were advised that objections may be filed within 14 days.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Chi Soo Kim
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	August 28, 2025
DOCKET	2:25-cv-01394-DC-CSK PS
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for a temporary restraining order under Federal Rule of Civil Procedure 65. The magistrate judge issued findings and recommendations recommending denial of the motion because Plaintiff failed to satisfy the notice and proposed-order requirements for a temporary restraining order.
STANDARD OF REVIEW	A temporary restraining order without notice may issue only when specific facts show that immediate and irreparable injury will occur before the opposing party can be heard and the movant certifies efforts to provide notice and reasons notice should not be required. Fed. R. Civ. P. 65(b)(1). Compliance with applicable local-rule requirements is also required.
PRECEDENTIAL VALUE	nonprecedential

PARTIES

Galina V. Andreyev v. Marcella Trotsiouk, Igor Trotsiouk, Jane Doe 1, Jane Doe 2, Sacramento County Adult Protective Services, John Does 1 and 2, Sacramento County Sheriff's Office, Jim Cooper

TOPICS

injunctions civil procedure guardianships elder law government liability

PRACTICE AREAS

civil procedure injunctive relief civil rights guardianships elder law

QUESTIONS PRESENTED

1. Whether Plaintiff's motion for a temporary restraining order could be granted when she failed to provide notice to the affected parties or explain why notice should not be required under Federal Rule of Civil Procedure 65(b)(1)(B).
2. Whether Plaintiff's failure to submit documents required by Eastern District of California Local Rule 231 warranted denial of the temporary restraining order.

HOLDINGS

1. A temporary restraining order without notice may not issue when the movant does not provide notice to the affected parties, make reasonable efforts to provide notice, or explain why notice should not be required as required by Federal Rule of Civil Procedure 65(b)(1)(B).
2. Failure to comply with the local rule governing temporary restraining orders, including the requirements to provide notice and submit required proposed orders and supporting documents, independently justified denial of the motion.

KEY QUOTATIONS

"Federal Rule of Civil Procedure 65(b)(1) permits the court to issue a TRO without notice to the adverse party only if (1) specific facts in the affidavit or underlying pleading show that immediate and irreparable injury, loss, or damage will result before the opposing party may be heard; and (2) the movant certifies in writing efforts made to give notice and the reasons why notice should not be required." (at 3)

"The Court therefore recommends denial of Plaintiff's temporary restraining order motion based on these procedural deficiencies." (at 4)

FACTUAL BACKGROUND

Plaintiff alleged that she held a power of attorney for her mother, witnessed abuse and improper medication of her mother, and was denied access to her mother by private caregivers. She alleged that a temporary conservatorship had invalidated her power of attorney and that county protective-services and sheriff's personnel failed to investigate abuse reports or enforce court orders. Plaintiff claimed that she had been isolated from her mother for more than twenty-two months and sought immediate access through a temporary restraining order.

PROCEDURAL HISTORY

Plaintiff filed the complaint and an application to proceed in forma pauperis on May 16, 2025. Defendants Marcella and Igor Trotsiouk moved to dismiss for insufficient service of process, but the motion was denied as premature. Plaintiff then moved for a temporary restraining order, and the district judge referred that motion to the magistrate judge for findings and recommendations.

DISPOSITION

other

REMAND INSTRUCTIONS

The findings and recommendations were submitted to the assigned district judge under 28 U.S.C. § 636(b)(1). The parties were given fourteen days after service to file objections and fourteen days thereafter for replies.

CASES CITED

- Reno Air Racing Ass'n, Inc. v. McCord, 452 F.3d 1126, 1131 (9th Cir. 2006)
- Abdel-Malak v. Doe, 2020 WL 5775818, at *1 (C.D. Cal. Feb. 20, 2020)
- Seymour v. U.S. Dep't of Def., 2010 WL 3385994, at *1 (S.D. Cal. Aug. 26, 2010)
- Roman v. Nw. Tr. Servs., Inc., 2010 WL 3489962, at *1 (W.D. Wash. Aug. 31, 2010)
- Tri-Valley CAREs v. U.S. Dep't of Energy, 671 F.3d 1113, 1131 (9th Cir. 2012)
- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)
- Martinez v. Yist, 951 F.2d 1153, 1156-57 (9th Cir. 1991)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 GALINA V. ANDREYEV, Case No. 2:25-cv-01394-DC-CSK PS 12
Plaintiff, 13 v. FINDINGS AND RECOMMENDATIONS TO DENY MOTION FOR
TEMPORARY 14 MARCELLA TROTSIOUK, et al., RESTRAINING ORDER 15 Defendants.
(ECF No. 6) 16 17 Plaintiff Galina V. Andreyev, who is proceeding pro se, brings this action
against 18 Defendants Marcella Trotsiouk; Igor Trotsiouk; Jane Doe 1, a Sacramento County Adult
19 Protective Services (“APS”) agent; Jane Doe 2, Director or Supervisor of APS in her 20
individual and official capacities; Sacramento County APS; John Does 1 and 2, 21 Sacramento
County Sheriff’s Deputies in their individual capacities; Sacramento County 22 Sheriff’s Office;
and Sheriff Jim Cooper in his individual and official capacities.1 (ECF No. 23 1.)

Pending before the Court is Plaintiff’s motion for temporary restraining order. (ECF 24 No. 6.)
Pursuant to Local Rule 230(g), the Court submits the motion upon the record and 25 briefs on file.
26 27 1 This matter was referred to the undersigned by the District Judge (ECF No. 8) and

proceeds before the undersigned pursuant to 28 U.S.C. § 636, Fed. R. Civ. P. 72, and 28 Local Rule 302(c).

1 For the reasons that follow, the Court recommends DENYING Plaintiff's motion 2 for temporary restraining order. 3 I. BACKGROUND 4 A. Factual Background 5 Plaintiff alleges in her Complaint that she has held a valid power of attorney for 6 her mother since 2019. Compl. at 3 ¶ 19 (ECF No. 1). Plaintiff states that she witnessed 7 multiple instances of abuse against her mother, including unlawful sedation by 8 Defendant Marcella Trotsiouk.

Id. at 4 ¶ 24. Plaintiff terminated Defendant Igor Trotsiouk, 9 Marcella's husband, as a caregiver for Plaintiff's mother on January 31, 2024. Id. at 4 10 ¶ 25. Plaintiff alleges she attempted to visit her mother, but Defendants Marcella and 11 Igor refused to allow her access, and Defendant Igor threatened Plaintiff. Id. at 4 ¶ 27. 12 Plaintiff and Defendant Marcella filed multiple restraining orders against each other in 13 state court in 2024 and 2025.

Id. at 4 ¶ 26, 5 ¶¶ 28, 29. Plaintiff alleges that a judge 14 invalidated Plaintiff's power of attorney due to a temporary conservatorship granted to 15 Marcella. Id. at 5 ¶ 31. Plaintiff also states that during a conservatorship hearing, it was 16 alleged that Igor held power of attorney from October 2021, but Plaintiff believes the 17 power of attorney is fraudulent.

Id. at 5 ¶¶ 53, 56. 18 Plaintiff alleges Defendants Jane Does 1 and 2 from APS failed to investigate or 19 conduct welfare checks, and the Sacramento County Sheriff's Office failed to enforce 20 court orders or investigate abuse reports. Id. at 5 ¶¶ 33-34. Plaintiff filed multiple 21 complaints with the District Attorney, APS, and the Sheriff's Office, but no action was 22 taken.

Id. at 5 ¶ 35. 23 Plaintiff also alleges that Plaintiff's mother was taking a medication that worsened 24 her condition, and in 2019 Plaintiff alerted her mother's physician about this issue. Id. at 25 5 ¶ 38. Plaintiff instructed Defendant Marcella not to give this medication to Plaintiff's 26 mother, but Marcella disregarded this request. Id. at 6 ¶ 40. Plaintiff alleges Defendants 27 Marcella and Igor exploited Plaintiff's mother's cognitive condition.

Id. at 6 ¶ 44. 28 In April 2024, Plaintiff alleges she was granted a court order allowing her to bring 1 her mother home, but that Defendants Marcella and Igor refused to comply with the 2 order. Id. at 7 ¶¶ 48-49. Plaintiff contacted the Sheriff's Office and presented the court 3 order and her power of attorney, but the documents were dismissed as invalid.

Id. at 7 4 ¶ 50. Further, Plaintiff attempted to retrieve her mother, but Defendant John Doe 2, a 5 Sheriff's deputy, responded and after speaking with Defendant Marcella, did not allow 6 Plaintiff inside the home. Id. at 7 ¶ 51. 7 Plaintiff states she was isolated from her mother for over 22 months. Pl. TRO Mot. 8 ¶ I.2 (ECF No. 6). Plaintiff's mother is in poor health and Plaintiff believes her health is 9 deteriorating rapidly.

Id. ¶ I.3. Plaintiff states there is risk that her mother could pass away without Plaintiff having the opportunity to see her or ensure her well-being. Id. ¶ I.4. 12 Plaintiff brings the following claims: violation of the Fourteenth Amendment due process, “retaliation for protected activity,” “interference with familial association,” “state-enabled abuse/failure to intervene,” denial of access to the courts, failure to enforce court orders, and fraud and misrepresentation regarding the power of attorney.

Compl. at 16 8-9. 17 B. Procedural Background 18 Plaintiff filed the Complaint and a motion to proceed in forma pauperis on May 16, 2025. (ECF Nos. 1, 2.) Defendants Marcella and Igor Trotsiouk filed a motion to dismiss 20 for insufficient service of process on August 14, 2025. (ECF No. 4.)

On August 19, 2025, 21 the Court denied Defendants’ motion to dismiss as premature. (ECF No. 5.) On August 22, 2025, Plaintiff filed a motion for temporary restraining order. (ECF No. 6.) On the 23 same day, Plaintiff filed a notice of unavailability, informing the Court that she will be out 24 of town for a medical procedure from September 4 through September 15, 2025.

(ECF 25 No. 7.) On August 25, 2025, the District Judge referred the motion for temporary 26 restraining order to the undersigned. (ECF No. 8.) 27 / / / 28 / / / 1 II. DISCUSSION 2 A. Plaintiff’s Temporary Restraining Order Motion is Procedurally 3 Deficient 4 Plaintiff moves for a temporary restraining order pursuant to Federal Rules of Civil 5 Procedure 65 against “Defendants.” 6 Federal Rule of Civil Procedure 65(b)(1) permits the court to issue a TRO without 7 notice to the adverse party only if (1) specific facts in the affidavit or underlying pleading 8 show that immediate and irreparable injury, loss, or damage will result before the 9 opposing party may be heard; and (2) the movant certifies in writing efforts made to give 10 notice and the reasons why notice should not be required.

Fed. R. Civ. P. 65(b)(1). This 11 Court’s Local Rules also set forth certain procedural mandates for a temporary 12 restraining order to issue, including that the movant provide the following documents: 13 (1) a complaint; (2) a motion for temporary restraining order; (3) a brief on the relevant 14 legal issues; (4) an affidavit to support the existence of irreparable harm; (5) an affidavit 15 detailing the notice or efforts undertaken or showing good cause why notice should not 16 be given; (6) a proposed temporary restraining order and provision for bond; (7) a 17 proposed order with blank for fixing time and date for a hearing; and (8) where a 18 temporary restraining order is requested ex parte, the proposed order should also notify 19 the affected parties of the right to apply to the Court for modification or dissolution on two 20 (2) days’ notice or such shorter notice as the Court may allow.

E.D. Cal. Local Rule 21 231(c). 22 Plaintiff’s temporary restraining order motion is procedurally deficient because 23 Plaintiff has not complied with the requirement to provide notice to all affected parties. 24 See Fed. R. Civ. P. 65(b)(1)(B); E.D. Cal. Local Rule 231(a) & 231(c)(5).

Plaintiff has not 25 provided any details regarding whether she has provided actual notice of her motion, 26 whether she tried to use reasonable efforts, or whether she should not be required to 27 provide notice.

There is no reference in Plaintiff's motion, Plaintiff's declaration, or the 28 docket regarding any such efforts. See Pl. Mot. TRO; Declaration of Galina V. Andreyev 1 (ECF No. 6-1); Docket. Defendants Marcella and Igor Trotsiouk have appeared in the 2 case, but both parties are pro se, and there appears to be some dispute about whether 3 the parties were served with the Complaint and Summons.

See Docket; Def. Mot. 4 Dismiss (ECF No. 4). There is no indication that any other Defendant has been served or 5 has appeared in the case. 6 Plaintiff failed to comply with Rule 65(b)(1)(B) and Local Rule 231(c)(5) because 7 she did not make efforts to provide notice of her motion to any Defendant, and did not 8 provide reasons why notice to Defendants should not be required.

See Pl. Mot. TRO; 9 Andreyev Decl. Courts regularly deny temporary restraining orders for failing to comply 10 with the stringent requirements of Rule 65(b)(1), including those sought by pro se 11 plaintiffs. See *Reno Air Racing Ass'n, Inc. v. McCord*, 452 F.3d 1126, 1131 (9th Cir. 12 2006) ("courts have recognized very few circumstances justifying the issuance of an ex 13 parte temporary restraining order"); *Abdel-Malak v. Doe*, 2020 WL 5775818, at *1 (C.D.

14 Cal. Feb. 20, 2020) (denying temporary restraining order sought by pro se plaintiff for 15 failure to satisfy Rule 65(b)'s "strict requirements"); *Seymour v. U.S. Dep't of Def.*, 2010 16 WL 3385994, at *1 (S.D. Cal. Aug. 26, 2010) (same); *Roman v. Nw. Tr. Servs., Inc.*, 17 2010 WL 3489962, at *1 (W.D. Wash. Aug. 31, 2010) (same).

In addition, Plaintiff's 18 failure to comply with the Local Rules' requirements for temporary restraining orders is 19 sufficient justification to deny the motion. See *Tri-Valley CAREs v. U.S. Dep't of Energy*, 20 671 F.3d 1113, 1131 (9th Cir. 2012) ("Denial of a motion as the result of a failure to 21 comply with local rules is well within a district court's discretion.").

Plaintiff also did not 22 submit the proposed orders required by Local Rule 231(c)(6)-(8).² 23 The Court therefore recommends denial of Plaintiff's temporary restraining order 24 motion based on these procedural deficiencies. 25 III. CONCLUSION 26 Based upon the findings above, it is RECOMMENDED that Plaintiff's Motion for 27 2 Plaintiff's motion is titled "Proposed Temporary Restraining Order and Order for 28 Immediate Access to Elderly Mother," however, no proposed order is included.

1 || Temporary Restraining Order (ECF No. 6) be DENIED. 2 These findings and recommendations are submitted to the United States District 3 || Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 4 | 14 days after being served with

these findings and recommendations, any party may file 5 || written objections with the Court and serve a copy on all parties.

This document should 6 || be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Any 7 || reply to the objections shall be served on all parties and filed with the Court within 14 8 | days after service of the objections. Failure to file objections within the specified time 9 | may waive the right to appeal the District Court’s order.

Turner v. Duncan, 158 F.3d 449, 10 | 455 (9th Cir. 1998); Martinez v. Yist, 951 F.2d 1153, 1156-57 (9th Cir. 1991). 11 12 | Dated: August 27, 2025 C iy S \U 13 CHI S00 KIM 44 UNITED STATES MAGISTRATE JUDGE 15 || 5, andr.1394.25 16 17 18 19 20 21 22 23 24 25 26 27 28