

**UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA**

Osaic Wealth Inc. v. Ricci

No. 25-cv-06906-AMO (N.D. Cal. Aug. 18, 2025) · No. 25-cv-06906-AMO · Decided August 18, 2025

SUMMARY

The United States District Court for the Northern District of California denied Osaic Wealth Inc.'s ex parte motion for a temporary restraining order seeking to enjoin Michael Ricci from pursuing claims in a FINRA arbitration. The court held that Osaic failed to demonstrate immediate irreparable harm, noting its unexplained delay of more than two months before seeking emergency relief. The denial was without prejudice to filing a noticed motion for a preliminary injunction.

OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 NORTHERN DISTRICT OF CALIFORNIA 6 7
OSAIC WEALTH INC., Case No. 25-cv-06906-AMO 8 Plaintiff, ORDER RE MOTION FOR 9
v. TEMPORARY RESTRAINING ORDER 10 MICHAEL RICCI, Re: Dkt. No. 5 Defendant. 11
12 13 On August 15, 2025, Plaintiff Osaic Wealth, Inc. (“Osaic”) filed an ex parte motion for 14
temporary restraining order (“TRO”) seeking to enjoin Defendant Michael Ricci from pursuing
his 15 claims against Osaic asserted in the FINRA Arbitration captioned Michael Ricci,
individually and 16 as Trustee of the Michelli Stephano Living Trust DTD 12/31/01 vs. Osaic
Wealth, Inc. (Crd# 17 23131), GWN Securities Inc. (Crd# 128929), and Christian McDonald
Ramsey (Crd# 3038410), 18 FINRA No. 25-01211 (the “FINRA Arbitration”).

See ECF 5. Having reviewed the ex parte 19 application filed by Plaintiff and the arguments made
therein, as well as the relevant legal 20 authority, the Court finds the motion appropriate for
decision without oral argument. See Fed. R. 21 Civ. P. 78(b); Civil L.R. 7-6.

The Court DENIES Osaic’s ex parte application. 22 A temporary restraining order is “an
‘extraordinary and drastic remedy,’ that is never 23 awarded as of right.” Epic Games, Inc. v.
Apple Inc., 493 F. Supp. 3d 817, 831 (N.D. Cal. 2020) 24 (citing *Munaf v. Geren*, 553 U.S. 674,
689-90 (2008)).

For a court to issue such extraordinary 25 relief, a plaintiff must establish (1) a likelihood of
success on the merits, (2) a likelihood of 26 irreparable harm absent injunctive relief, (3) that the
balance of equities tips in plaintiff’s favor, 27 and (4) that the public interest favors injunctive
relief. *Winter v. Nat. Res. Def. Council*, 555 U.S. 1 *DISH Network Corp. v. F.C.C.*, 653 F.3d 771,
776 (9th Cir.

2011). “A plaintiff must do more than 2 merely allege imminent harm sufficient to establish standing; a plaintiff must demonstrate 3 immediate threatened injury as a prerequisite to preliminary injunctive relief.” *Caribbean Marine 4 Servs. Co. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988). Indeed, a plaintiff seeking the issuance 5 of an ex parte TRO must satisfy Federal Rule of Civil Procedure 65(b), which requires a showing 6 “that immediate and irreparable injury, loss, or damage will result to the movant before the 7 adverse party can be heard in opposition” and certification of “any efforts made to give notice and 8 the reasons why it should not be required.” Fed.

R. Civ. P. 65(b)(1). Because Osaic has failed to 9 carry its burden to show a likelihood of immediate irreparable harm, the other factors need not be 10 analyzed. 11 Here, Osaic asserts that “a TRO is necessary by 5:00 p.m. PT on August 20, 2025 to 12 prevent immediate and irreparable harm” in the form of Osaic being compelled to defend itself in 13 the arbitration, noting that Osaic “expects that arbitrator selection in the FINRA Arbitration will 14 occur in the near future.” ECF 5 at 2.

Though this Court doubts that an entity’s defense of itself 15 in arbitration constitutes irreparable harm, the Court finds Osaic’s application deficient based on 16 its failure to demonstrate any immediacy to its threatened injury. Osaic “expects” arbitrator 17 selection in the near future, but it waited over two months since Ricci’s initiation of the FINRA 18 arbitration before filing its motion for preliminary relief on August 15, 2025.¹ Id.; Curly Decl., 19 Ex. 1 (FINRA Statement of Claim dated June 11, 2025).

Courts frequently find that “a plaintiff’s 20 delay in seeking relief weighs against granting a TRO.” *Perez v. City of Petaluma*, No. 21-CV- 21 06190-JST, 2021 WL 3934327, at *1 (N.D. Cal. Aug. 13, 2021) (denying TRO application where 22 plaintiff waited “a full month” after the issuance of the challenged city resolution); see also *Miller 23 ex rel. NLRB v. Cal. Pac.*

Med. Ctr., 991 F.2d 536, 544 (9th Cir. 1993). Indeed, “[d]elays of one 24 month or more are common grounds for denying motions for temporary restraining orders, and 25 some courts deny emergency relief based on delays of as little as ten days.” *Huang v. Small Bus. 26 Admin.*, No. 22-CV-03363-BLF, 2022 WL 3017521, at *3 (N.D. Cal. July 29, 2022) (collecting 27 1 cases).

Osaic’s unexplained delay in seeking extraordinary relief undermines its claim that it will 2 suffer irreparable harm in the absence of a TRO. 3 Therefore, the Court DENIES Osaic’s ex parte application for a TRO without prejudice to 4 filing a noticed motion for preliminary injunction. 5 6 IT IS SO ORDERED. 7 Dated: August 18, 2025 8 9: ARACELI MARTINEZ-OLGUIN 10 United States District Judge 11 12 15 16 = 17 Z 18 19 20 21 22 23 24 25 26 27 28