

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MAINE

Nippon Sanso Matheson Inc. v. Erik M. Miskin & Maine Oxy-Acetylene Supply Company

Nippon Sanso Matheson Inc. v. Miskin, No. 2:26-cv-00290-SDN (D. Me. June 3, 2026) · No. 2:26-cv-00290-SDN · Decided June 3, 2026

SUMMARY

The United States District Court for the District of Maine denied without prejudice Nippon Sanso Matheson, Inc.'s ex parte motion for a temporary restraining order and preliminary injunction. The court held that the plaintiff failed to satisfy Federal Rule of Civil Procedure 65(b)(1) because it did not provide an affidavit or verified complaint showing immediate and irreparable harm or an attorney certification addressing notice. The court ordered the motion and attachments unsealed.

CASE DETAILS

COURT	United States District Court for the District of Maine
WRITING FOR THE COURT	Stacey D. Neumann
JURISDICTION	United States District Court for the District of Maine
DECIDED	June 3, 2026
DOCKET	2:26-cv-00290-SDN
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff moved ex parte under Federal Rule of Civil Procedure 65(b) for a temporary restraining order and also moved for a preliminary injunction. The district court denied the request for an emergency temporary restraining order without prejudice.
STANDARD OF REVIEW	The court applied the mandatory requirements of Federal Rule of Civil Procedure 65(b)(1) governing ex parte temporary restraining orders.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Nippon Sanso Matheson Inc. v. Erik M. Miskin, Maine Oxy-Acetylene Supply Company

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QUESTIONS PRESENTED

1. Whether Matheson satisfied Federal Rule of Civil Procedure 65(b)(1)'s requirements for an ex parte temporary restraining order.
2. Whether the court should issue an emergency temporary restraining order before the defendants received notice and an opportunity to be heard.

HOLDINGS

1. An ex parte temporary restraining order may issue only upon strict compliance with Federal Rule of Civil Procedure 65(b)(1), including specific facts in an affidavit or verified complaint showing immediate and irreparable injury before the adverse party can be heard and a written attorney certification concerning notice.
2. The court would not grant an ex parte temporary restraining order where the plaintiff indicated that it intended to serve the defendants immediately after filing and failed to establish why notice should be dispensed with.

KEY QUOTATIONS

“to serving their underlying purpose of preserving the status quo and preventing irreparable harm just so long as is necessary to hold a hearing, and no longer.” (415 U.S. at 439)

“The Court notes this Order addresses only Plaintiff’s failure to comply with the strict and mandatory provisions of Rule 65(b)(1).” (Order)

FACTUAL BACKGROUND

Matheson alleged that Erik Miskin misappropriated confidential business information. Matheson filed an unverified complaint and, the same day, sought an ex parte temporary restraining order and a preliminary injunction. The motion stated that Mathon intended to serve the complaint and motion on the defendants immediately after filing, but did not include an affidavit showing specific facts establishing imminent irreparable injury or an attorney certification addressing efforts to provide notice and reasons notice should not be required.

PROCEDURAL HISTORY

Matheson filed an unverified complaint alleging federal and state-law violations arising from the alleged misappropriation of confidential business information. It then filed an ex parte motion for a temporary restraining order and a motion for preliminary injunction. The court denied the ex parte request because the filing did not satisfy Rule 65(b)(1), while expressly declining to address the merits of the complaint or preliminary-injunction motion.

DISPOSITION

dismissed

CASES CITED

- Granny Goose Foods, Inc. v. Brotherhood of Teamsters & Auto Truck Drivers Local No. 70 of Alameda County, 415 U.S. 423, 439 (1974)
- Garcia v. Cellco Partnership, No. 26-CV-00149, 2026 WL 842269, at *2 (D. Me. Mar. 24, 2026)

OPINION

MISKIN

PER CURIAM.

UNITED STATES DISTRICT COURT

DISTRICT OF MAINE

NIPPON SANSO MATHESON INC.,)

) Plaintiff,)) v.) 2:26-cv-00290-SDN)

ERIK M. MISKIN & MAINE)

OXY-ACETYLENE SUPPLY COMPANY,)

) Defendants.)

ORDER ON PLAINTIFF’S EX PARTE MOTION FOR A TEMPORARY

RESTRAINING ORDER

On June 2, 2026, Plaintiff Nippon Sanso Matheson, Inc. (“Matheson”) filed an unverified complaint alleging several violations of federal and state law against Mr. Erik Miskin and Maine Oxy-Acetylene Supply Company (collectively “the Defendants”) related to confidential business information which Mr. Miskin allegedly misappropriated from Matheson. ECF No. 1. That same day, Matheson filed an ex parte motion under seal for a temporary restraining order (“TRO”) and a motion for preliminary injunction. ECF No.

4. After reviewing the Plaintiff’s request, the Court DENIES the ex parte motion for a temporary restraining order without prejudice.

ANALYSIS

A court may issue a TRO under Federal Rule of Civil Procedure 65(b) only if: (A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and (B) the movant’s attorney certifies in writing any efforts made to give notice and the reasons why it should not be required. Fed. R. Civ. P. 65(b)(1). Federal courts must limit ex parte temporary restraining orders “to serving their underlying purpose of preserving the status quo and preventing irreparable harm just so long as is necessary to hold a hearing, and no longer.” *Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Loc. No. 70 of Alameda Cnty.*, 415 U.S. 423, 439 (1974). Courts must ensure strict compliance with Rule 65(b)(1) before considering enjoinder of a party without notice. See *Garcia v. Cellco P’ship*, No. 26-CV-00149, 2026 WL 842269, at *2 (D. Me.

Mar. 24, 2026). Plaintiff has failed to comply with Rule 65(b)(1)'s requirements. The Court cannot locate in the unverified complaint or the motion an affidavit demonstrating specific facts that clearly show "immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition," or a certification from the plaintiff's attorney regarding "efforts made to give notice [to the opposing party] and the reasons why it should not be required." Fed. R. Civ. P. 65(b)(1). Confusingly, Plaintiff states it is planning to serve the complaint and the instant motion to Defendants "immediately following filing," ECF No. 4 at 13, ostensibly obviating the need for the motion to be ex parte. The Court cannot ascertain why the ex parte motion should be granted given the "fact that our entire jurisprudence runs counter to the notion of court action taken before reasonable notice and an opportunity to be heard has been granted both sides of a dispute." *Granny Goose Foods*, 415 U.S. at 439. The Court notes this Order addresses only Plaintiff's failure to comply with the strict and mandatory provisions of Rule 65(b)(1). The Court is not otherwise commenting on the merits of the complaint or the motion for preliminary injunction and will await service of the complaint and summons upon Defendants and their entries of appearance in this case before proceeding further. Accordingly, the Court DISMISSES without prejudice Plaintiff's Ex Parte Motion for a Temporary Restraining Order and Motion for Preliminary Injunction but only to the extent the motion seeks an emergency temporary restraining order. ECF No. 4. It is hereby ORDERED the Clerk of Court shall unseal the motion and attachments at ECF No. 4. SO ORDERED. Dated this 3rd day of June, 2026. /s/ Stacey D. Neumann

UNITED STATES DISTRICT JUDGE