

COURT OF APPEALS OF TEXAS, ELEVENTH DISTRICT

Mark Adams; Waterloo Medical Labs, LLC; Ashton Kouzbari; and Strategic Medical Services, LLC v. Landon Northcutt; Diversified Sales, LLC; Star Hospital Solutions, LLC; and Go Net, LLC

Mark Adams · No. 11-17-00252-CV · Decided September 15, 2017

SUMMARY

The Texas Eleventh Court of Appeals partially granted Appellants' emergency motion in an accelerated appeal involving temporary injunctions issued without notice. The court stayed the trial court's injunctive orders issued on August 25 and September 8, 2017, but declined to stay all proceedings in the trial court. The court expressed no opinion on the merits of the requested temporary injunction.

CASE DETAILS

COURT	Court of Appeals of Texas, Eleventh District
WRITING FOR THE COURT	Wright, C.J.; Willson, J.; Bailey, J.
JURISDICTION	Texas
DECIDED	September 15, 2017
DOCKET	11-17-00252-CV
DISPOSITION	other
PROCEDURAL POSTURE	Accelerated interlocutory appeal from two trial-court orders granting temporary injunctions without notice, together with Appellants' emergency motion to dissolve or stay the orders and stay all proceedings below.
PRECEDENTIAL VALUE	Published
PARTIES	Mark Adams, Waterloo Medical Labs, LLC, Ashton Kouzbari, Strategic Medical Services, LLC v. Landon Northcutt, Diversified Sales, LLC, Star Hospital Solutions, LLC, Go Net, LLC

TOPICS

[injunctions](#)[interlocutory appeal](#)[appellate procedure](#)[civil procedure](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial court's August 25 and September 8, 2017 orders were temporary injunctions subject to the notice requirement of Texas Rule of Civil Procedure 681.
2. Whether the appellate court should stay the injunctive orders and all proceedings in the trial court during the accelerated interlocutory appeal.

HOLDINGS

1. The challenged orders were temporary injunctions, not merely temporary restraining orders, and a temporary injunction may not be issued without notice to the adverse party.
2. The emergency motion was granted insofar as Appellants sought a stay of the injunctive orders issued on August 25 and September 8, 2017.

KEY QUOTATIONS

“No temporary injunction shall be issued without notice to the adverse party.”

“We grant Appellants’ emergency motion with respect to Appellants’ request to stay the injunctive orders issued by the trial court on August 25, 2017, and September 8, 2017.”

FACTUAL BACKGROUND

The trial court issued two orders characterized by the court of appeals as temporary injunctions rather than merely temporary restraining orders. The orders were issued without notice to Appellants, and a trial-court hearing was scheduled to consider whether a temporary injunction should be granted and whether to reconsider and dissolve the existing injunction.

PROCEDURAL HISTORY

The 266th District Court of Erath County issued temporary-injunction orders on August 25, 2017, and September 8, 2017, without notice to Appellants. During the accelerated appeal, Appellants sought emergency relief from the court of appeals. The court granted the motion insofar as it sought a stay of the injunctive orders, but denied the request to stay all trial-court proceedings.

DISPOSITION

other

OPINION

PER CURIAM.

Order filed September 15, 2017 In The Eleventh Court of Appeals _____ No. 11-17-00252-CV _____ MARK ADAMS; WATERLOO MEDICAL LABS, LLC; ASHTON

KOUZBARI; AND STRATEGIC MEDICAL SERVICES, LLC, Appellants V. LANDON NORTHCUTT; DIVERSIFIED SALES, LLC; STAR HOSPITAL SOLUTIONS, LLC; AND GO NET, LLC, Appellees On Appeal from the 266th District Court Erath County, Texas Trial Court Cause No. CV34582 ORDER In this accelerated appeal from two orders in which the trial court granted a temporary injunction without notice to Appellants, Appellants have filed in this court an emergency motion.

In their motion, Appellants ask that we dissolve or stay the two orders issued by the trial court and also that we stay all proceedings below. We grant the motion in part. We note that the trial court's orders are not merely temporary restraining orders, but are temporary injunctions. See TEX. R. CIV. P. 680, 681. "No temporary injunction shall be issued without notice to the adverse party." TEX. R. CIV.

P. 681. We also note that a hearing is scheduled to be held in the trial court on September 18, 2017, and that two of the trial court's stated purposes for the hearing are (1) to determine whether a temporary injunction should be granted and (2) to rule on Appellants' motion to reconsider and to dissolve the temporary injunction.

We express no opinion regarding the merits of Appellees' request for a temporary injunction; however, we note that Rule 29.6 of the Texas Rules of Appellate Procedure provides that we may, in this accelerated appeal, review any "further appealable interlocutory order concerning the same subject matter." We grant Appellants' emergency motion with respect to Appellants' request to stay the injunctive orders issued by the trial court on August 25, 2017, and September 8, 2017.

The emergency motion is denied with respect to Appellants' request to stay all proceedings in the trial court. See TEX. CIV. PRAC. & REM. CODE ANN. § 51.014(a)(4), (b) (West Supp. 2016); see also TEX. R. APP. P. 29.1. PER CURIAM September 15, 2017 Panel consists of: Wright, C.J., Willson, J., and Bailey, J. 2