

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

The New York State Nurses Association v. The Brooklyn Hospital Center

New York State Nurses Ass'n · No. 26-CV-745(EK)(PCG) · Decided February 11, 2026

SUMMARY

The Eastern District of New York denied the plaintiff union’s ex parte request for a temporary restraining order directing the defendant hospital to make allegedly overdue contributions to a benefits fund. The court held that the plaintiff failed to certify efforts to provide notice or reasons notice should not be required and had not separately moved for the requested relief under Federal Rule of Civil Procedure 65.

CASE DETAILS

COURT	United States District Court for the Eastern District of New York
WRITING FOR THE COURT	Eric Komitee
JURISDICTION	United States District Court for the Eastern District of New York
DECIDED	February 11, 2026
DOCKET	26-CV-745(EK)(PCG)
DISPOSITION	denied
PROCEDURAL POSTURE	Plaintiff filed a complaint alleging that defendant failed to make contractually required contributions to a benefits fund and requested an ex parte temporary restraining order in the complaint. The court denied the TRO request.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- injunctions
- civil procedure
- labor law
- contracts

PRACTICE AREAS

- civil procedure
- labor law
- contracts

QUESTIONS PRESENTED

1. Whether plaintiff could obtain an ex parte temporary restraining order without certifying efforts to provide notice and the reasons notice should not be required.
2. Whether a request for a temporary restraining order contained only in the complaint, without a separately filed motion, was properly before the court.

HOLDINGS

1. An ex parte TRO request is inappropriate when the movant has neither provided notice to the opposing party nor certified in writing the efforts made to give notice and the reasons notice should not be required.
2. A request for immediate TRO relief is not properly before the court when it appears only in the complaint and the plaintiff has not filed a separate motion.

KEY QUOTATIONS

“any efforts made to give notice and the reasons why it should not be required.”

“Plaintiff’s attorney has not submitted anything about efforts to give notice or reasons why notice should not be required. That omission alone is fatal to the application”

FACTUAL BACKGROUND

The plaintiff union alleged that the hospital failed to make contractually required contributions to a benefits fund for union members. The union had filed a grievance concerning the alleged failure, and that grievance was pending arbitration. The union requested an ex parte TRO directing the hospital to make overdue contributions while the grievance was being resolved, without providing notice to the hospital or its attorney.

PROCEDURAL HISTORY

The New York State Nurses Association sued The Brooklyn Hospital Center over alleged failures to make required benefits-fund contributions. A related grievance was pending arbitration. Plaintiff sought an ex parte TRO directing the hospital to make overdue contributions, but did not provide notice to defendant, did not certify efforts to provide notice or reasons notice should not be required, and did not file a separate motion. The district court denied the TRO and instructed that any preliminary-injunction request be brought by a properly filed and served motion.

DISPOSITION

denied

CASES CITED

- FEI Hong Kong Co. v. GlobalFoundries, Inc., No. 20-CV-2342, 2020 WL 1444956, at *2 (S.D.N.Y. Mar. 25, 2020)
- Gullas v. 37-31 73rd St. Owners Corp., No. 12-CV-2301, 2012 WL 1655520, at *1 (E.D.N.Y. May 10, 2012)

- Pro. Merch. Advance Cap., LLC v. C Care Servs., LLC, No. 13-CV-6562, 2013 WL 12109397, at *2 (S.D.N.Y. Oct. 2, 2013)
- Allens Creek / Corbetts Glen Pres. Grp., Inc. v. Caldera, 88 F. Supp. 2d 77, 83 (W.D.N.Y. 2000)
- Allens Creek / Corbetts Glen Pres. Grp., Inc. v. West, 2 F. App'x 162 (2d Cir. 2001)

OPINION

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK -----
 -----x THE NEW YORK STATE NURSES ASSOCIATION, MEMORANDUM & ORDER
 Plaintiff, 26-CV-745(EK)(PCG) -against- THE BROOKLYN HOSPITAL CENTER, Defendant. --
 -----x ERIC KOMITEE, United States District Judge: The New York State
 Nurses Association, a union, sues the Brooklyn Hospital Center.

Plaintiff alleges that the hospital has failed to make contractually required contributions to a benefits fund for union members. Compl. 1, ECF No. 1. Plaintiff has brought a grievance — currently pending arbitration — challenging this alleged failure. Id. ¶ 20. Plaintiff has also requested a temporary restraining order (“TRO”), directing the hospital to “make its overdue contributions” pending final resolution of the grievance.

Id. at 10-11. The TRO request is ex parte: plaintiff has provided no written or oral notice to the defendant or its attorney. For the reasons set forth below, this request is denied. When a movant seeks an ex parte TRO, it must, among other things, certify in writing “any efforts made to give notice and the reasons why it should not be required.” Fed. R. Civ.

P. 65(b)(1)(B); FEI Hong Kong Co. v. GlobalFoundries, Inc., No. 20-CV-2342, 2020 WL 1444956, at *2 (S.D.N.Y. Mar. 25, 2020) (denying TRO as plaintiff had “not provided any reasons why notice was unnecessary or impractical”); Gullas v. 37-31 73rd St. Owners Corp., No. 12-CV-2301, 2012 WL 1655520, at *1 (E.D.N.Y. May 10, 2012) (denying TRO as plaintiffs had “neither shown that Defendant was given notice of this motion nor made any showing as to why notice should not be required”).

This failure alone renders ex parte relief inappropriate. E.g., Pro. Merch. Advance Cap., LLC v. C Care Servs., LLC, No. 13-CV-6562, 2013 WL 12109397, at *2 (S.D.N.Y. Oct. 2, 2013) (“Plaintiff’s attorney has not submitted anything about efforts to give notice or reasons why notice should not be required. That omission alone is fatal to the application....”).

Plaintiff has also not separately moved for this preliminary relief; the request for a TRO appears only in the complaint. It is thus not properly before this Court. Allens Creek / Corbetts Glen Pres. Grp., Inc. v. Caldera, 88 F. Supp. 2d 77, 83 (W.D.N.Y. 2000), aff’d sub nom. Allens Creek / Corbetts Glen Pres. Grp., Inc. v. West, 2 F. App’x 162 (2d Cir. 2001) (collecting cases and explaining that “[i]f a party seeks immediate relief, Rule 65... requires the filing of a motion”).

For the reasons set forth above, the request for a TRO is denied. If plaintiff wishes to pursue a preliminary injunction, it should file a motion in compliance with Rule 65 and serve that motion on the defendant. SO ORDERED. /s/ Eric Komitee ERIC KOMITEE United States District Judge
Dated: February 11, 2026 Brooklyn, New York

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