

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.

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