

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WASHINGTON

Frank's Landing Indian Community v. Linda Myhre Enlow

Frank's Landing · No. 3:25-cv-05929-TL · Decided December 22, 2025

SUMMARY

The United States District Court for the Western District of Washington denied Frank's Landing Indian Community's emergency motion for a temporary restraining order. The court held that Plaintiff failed to comply with the notice requirements of Federal Rule of Civil Procedure 65(b) and waited too long to seek relief before scheduled state-court depositions.

CASE DETAILS

COURT	United States District Court for the Western District of Washington
WRITING FOR THE COURT	Tana Lin
JURISDICTION	United States District Court for the Western District of Washington
DECIDED	December 22, 2025
DOCKET	3:25-cv-05929-TL
DISPOSITION	denied
PROCEDURAL POSTURE	Plaintiff moved for an emergency temporary restraining order to halt two depositions scheduled in an underlying state-court matter. The federal district court denied the motion.
STANDARD OF REVIEW	A temporary restraining order is an extraordinary remedy that is never awarded as of right; an ex parte TRO requires compliance with Federal Rule of Civil Procedure 65(b)(1), including specific facts showing immediate and irreparable harm before the adverse party can be heard and written certification of notice efforts.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Frank's Landing Indian Community v. Linda Myhre Enlow, in her official capacity as Clerk of the Superior Court for Thurston County, Washington

TOPICS

- injunctions
- civil procedure
- sanctions

PRACTICE AREAS

civil procedure

injunctive relief

tribal litigation

QUESTIONS PRESENTED

1. Whether Plaintiff satisfied the notice requirements for an ex parte temporary restraining order under Federal Rule of Civil Procedure 65(b)(1).
2. Whether Plaintiff's delay in filing the emergency motion warranted denial of the requested temporary restraining order.

HOLDINGS

1. Plaintiff did not comply with the notice requirements of Federal Rule of Civil Procedure 65(b), and the court therefore could not grant the requested emergency relief.
2. The court denied the TRO because Plaintiff created the asserted emergency by waiting to file until two days before the scheduled depositions, leaving Defendant and the court insufficient time to respond and prepare for a hearing.

KEY QUOTATIONS

“A TRO, as with any preliminary injunctive relief, is an extraordinary remedy that is “never awarded as of right.”” (at 1)

“Absent compliance with Rule 65(b), the Court cannot grant the emergency relief sought in Plaintiff’s motion.” (at 2)

“In short, this is an emergency of Plaintiff’s own making.” (at 3)

FACTUAL BACKGROUND

A state-court order issued on or about December 5, 2025, required Plaintiffs to participate in two depositions scheduled for December 23 and threatened additional state-court sanctions if the depositions did not proceed. Plaintiff filed an emergency TRO motion at 5:37 p.m. on Sunday, December 21, asserting that the motion was necessary to prevent the depositions. Plaintiff relied on a telephonic meet-and-confer held on October 24, but the court concluded that the earlier discussion could not have provided meaningful notice of a motion whose necessity was not known until December.

PROCEDURAL HISTORY

Plaintiff sought emergency injunctive relief after a state-court order required Plaintiffs to participate in two depositions and threatened additional sanctions if the depositions did not proceed. Plaintiff filed the TRO motion on December 21, 2025, two days before the scheduled depositions. The district court denied the motion because Plaintiff failed to comply with the notice requirements of Federal Rule of Civil Procedure 65(b) and delayed filing despite knowing of the asserted need for relief by December 5.

DISPOSITION

denied

CASES CITED

- Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 24 (2008)
- Stuhlbarg Int'l Sales Co. v. John D. Brush & Co., 240 F.3d 832, 829 n.7 (9th Cir. 2001)
- Reno Air Racing Ass'n v. McCord, 452 F.3d 1126, 1131 (9th Cir. 2006)
- Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers, 415 U.S. 423, 438-39 (1974)
- Estrada v. Booker, 374 F. App'x 730, 732 (9th Cir. 2010)
- Gibson v. City of Vancouver, No. C20-6162, 2020 WL 7213360, at *1 (W.D. Wash. Dec. 3, 2020)
- Whitley v. Ritchie Grp., No. C17-673, 2017 WL 5075303, at *1 (W.D. Wash. Aug. 1, 2017)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT WESTERN DISTRICT OF
WASHINGTON 9 AT SEATTLE 10 11 FRANK'S LANDING INDIAN CASE NO. 3:25-cv-
05929-TL COMMUNITY, 12 ORDER ON EMERGENCY MOTION Plaintiff, FOR
TEMPORARY RESTRAINING 13 v. ORDER 14 LINDA MYHRE ENLOW, in her official 15
capacity as Clerk of the Superior Court for Thurston County, Washington, 16 Defendant.

17 18 This matter is before the Court on Plaintiff's Emergency Motion for a Temporary 19
Restraining Order ("TRO"). Dkt. No. 25. Having reviewed the motion and the relevant record, 20
the motion is DENIED. 21 A TRO, as with any preliminary injunctive relief, is an extraordinary
remedy that is 22 "never awarded as of right." See Winter v. Nat. Res. Def. Council, Inc., 555 U.S.
7, 24 (2008); 23 see also Stuhlbarg Int'l Sales Co. v. John D. Brush & Co., 240 F.3d 832, 829 n.7
(9th Cir.

2001) 24 (noting the analysis for a TRO and a preliminary injunction are substantially identical),
overruled 1 on other grounds by Winter, 555 U.S. 7. Importantly, given that the U.S. federal
jurisprudence 2 "runs counter to the notion of court action taken before reasonable notice and an
opportunity to 3 be heard has been granted both sides of a dispute..., courts have recognized very
few 4 circumstances justifying the issuance of an ex parte TRO." Reno Air Racing Ass'n v.
McCord, 5 452 F.3d 1126, 1131 (9th Cir.

2006) (quoting Granny Goose Foods, Inc. v. Bhd. of Teamsters & 6 Auto Truck Drivers, 415 U.S.
423, 438-39 (1974)). 7 Federal Rule of Civil Procedure 65(b)(1) provides that: 8 The court may
issue a temporary restraining order without written or oral notice to the adverse party or its
attorney only if: 9 (A) specific facts in an affidavit or a verified complaint 10 clearly show that
immediate and irreparable injury, loss, or damage will result to the movant before the adverse
party 11 can be heard in opposition; and 12 (B) the movant's attorney certifies in writing any
efforts made to give notice and the reasons why it should not be 13 required.

14 Fed. R. Civ. P. 65 (boldface and emphasis added). 15 Local Civil Rule 65(b)(1) of this District also provides that: 16 Motions for temporary restraining orders without notice to and an opportunity to be heard by the adverse party are disfavored and 17 will rarely be granted. Unless the requirements of Fed. R. Civ. P. 65(b) for issuance without notice are satisfied, the moving party 18 must serve all motion papers on the opposing party, by electronic means if available, before or contemporaneously with the filing of 19 the motion and include a certificate of service with the motion.

The motion must also include contact information for the opposing 20 party's counsel or for an unrepresented party. 21 Here, Plaintiff has not complied with the notice requirements of Rule 65. Plaintiff avers 22 in its motion that "Counsel participated in a telephonic meet and confer on October 24, 2025, 23 with counsel for Defendant.... Despite these efforts, the parties were unable to resolve the 24 matter, necessitating this emergency motion." Dkt.

No. 25 at 13. But Plaintiff's motion appears 1 to be aimed at preventing "two further depositions [in the underlying state-court matter] of 2 Plaintiffs [that] are scheduled to occur on December 23, 2025." Id. at 6. And the state-court order 3 that mandated Plaintiffs' participation in these depositions was issued on or about December 5, 4 2025. Id. It is this state-court order that "expressly threaten[s]... additional sanctions by the 5 state court if those depositions do not proceed," thus creating the exigent circumstances that, 6 according Plaintiff, render this an emergency.

Id. 7 It is not clear how Plaintiff could have provided meaningful notice of this motion to 8 Defendant on October 24, 2025, when Plaintiff did not ascertain its necessity until, at the earliest, 9 December 5, 2025. Put another way, whatever the Parties might have discussed on October 24, 10 2025, it was not this motion for a TRO. Absent compliance with Rule 65(b), the Court cannot 11 grant the emergency relief sought in Plaintiff's motion.

See *Estrada v. Booker*, 374 F. App'x 12 730, 732 (9th Cir. 2010). 13 Further, as discussed above, Plaintiff ascertained that this motion would be necessary as 14 early as December 5, 2025, some 18 days before the depositions it now seeks to halt. Yet 15 Plaintiff waited until Sunday, December 21, 2025, to file its emergency motion. Plaintiff asserts 16 that the instant motion "is being filed at the earliest possible date after receipt of the December 5, 17 2025 hearing transcript"—i.e., December 16, 2025.

Dkt. No. 25 at 6. But even if the Court 18 credits Plaintiff's assertion that it could not have possibly filed this motion without having the 19 transcript in hand—a condition precedent that Plaintiff does not explain—it is not clear why 20 Plaintiff then waited yet another five days to file the motion. 21 In short, this is an emergency of Plaintiff's own making. "The timing of [Plaintiff's] 22 motion has given [Defendant] no reasonable opportunity to respond.

[Plaintiff] has also made it 23 more difficult for the court to prepare for, schedule, and conduct a hearing in advance of the” 24 depositions. *Gibson v. City of Vancouver*, No. C20-6162, 2020 WL 7213360, at *1 (W.D. Wash. 1 || Dec. 3, 2020), reconsideration denied 2020 WL 7641202 (Dec. 23, 2020); see *Whitley v. Ritchie 2 || Grp.*, No. C17-673, 2017 WL 5075303, at *1 (W.D.

Wash. Aug. 1, 2017) (denying emergency 3 || motion for TRO, “despite the presumed harm that will arise,” where, owing to plaintiff's delay in 4 || filing, “defendants would have [had] only one day to respond if there were any hope that the 5 || Court could issue a decision”).

Here, Plaintiffs waiting until 5:37 p.m. on Sunday, December 21, 6 || when the depositions at issue are scheduled for Tuesday, December 23, gives neither Defendant 7 || nor the Court sufficient time to address the issue, especially when Plaintiff could have filed the 8 || motion sooner. 9 Therefore, Plaintiff's motion for a temporary restraining order (Dkt.

No. 25) is DENIED. 10 11 Dated this 22nd day of December 2025. © 4a ZE 13 Tana Lin United States District Judge 14 15 16 17 18 19 20 21 22 23 24 ORDER ON EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER — 4