

**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

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