

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
FLORIDA, JACKSONVILLE DIVISION

Modaxo Traffic Management USA, Inc. v. Sean Collins

No. 3:25-cv-1463-WWB-LLL, United States District Court for the Middle District of Florida, Jacksonville
Division (November 26, 2025)

SUMMARY

The United States District Court for the Middle District of Florida denied Modaxo Traffic Management USA, Inc.’s emergency motion for an ex parte temporary restraining order against Sean Collins. The court held that Plaintiff had not shown immediate irreparable harm or provided sufficient justification for denying notice and an opportunity to be heard under Federal Rule of Civil Procedure 65(b), and directed Plaintiff to file a separate motion if it seeks a preliminary injunction.

CASE DETAILS

COURT	United States District Court for the Middle District of Florida, Jacksonville Division
WRITING FOR THE COURT	Wendy W. Berger
JURISDICTION	United States District Court for the Middle District of Florida, Jacksonville Division
DECIDED	November 26, 2025
DOCKET	3:25-cv-1463-WWB-LLL
DISPOSITION	denied
PROCEDURAL POSTURE	Plaintiff sought an emergency ex parte temporary restraining order under Federal Rule of Civil Procedure 65(b), seeking to enjoin Defendant from using confidential information and to require production of his electronics for inspection.
STANDARD OF REVIEW	To obtain a temporary restraining order, the movant must show a substantial likelihood of success on the merits, irreparable injury absent relief, that the threatened injury outweighs harm to the nonmovant, and that relief serves the public interest. For an ex parte TRO under Rule 65(b), the movant must also provide specific facts clearly showing immediate irreparable injury before the adverse party can be heard and facts explaining why notice is impracticable.
PRECEDENTIAL VALUE	unpublished district court order; nonprecedential

PARTIES

Modaxo Traffic Management USA, Inc. v. Sean Collins

TOPICS

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QUESTIONS PRESENTED

1. Whether Plaintiff established the immediate and irreparable injury required for an ex parte temporary restraining order under Federal Rule of Civil Procedure 65(b).
2. Whether Plaintiff showed that notice and an opportunity to respond should be denied because notice was impracticable.
3. Whether the emergency motion should be treated as a request for a preliminary injunction.

HOLDINGS

1. Plaintiff failed to establish the immediate irreparable harm required for an ex parte temporary restraining order because its conclusory allegations lacked supporting factual or legal detail showing that Defendant posed an immediate threat.
2. Plaintiff failed to establish that notice to Defendant was impracticable or that Defendant should be denied an opportunity to respond.
3. The court would not treat the emergency motion as a request for a preliminary injunction; Plaintiff was required to file a separate motion to seek that relief.

KEY QUOTATIONS

“Pursuant to Federal Rule of Civil Procedure 65(b), a district court may issue a temporary restraining order “without written or oral notice to the adverse party” if the requesting party provides “specific facts . . . [that] clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition.””

“An ex parte temporary restraining order is an extreme remedy to be used only with the utmost caution.”

FACTUAL BACKGROUND

Modaxo alleged that Collins had stolen substantial confidential information, continued to possess it, and was working for a competing business. Modaxo had known of Collins's possession of the information and competing employment for nearly two months, and relied primarily on conclusory assertions and his failure to respond to an October 2025 cease-and-desist letter to support ex parte relief.

PROCEDURAL HISTORY

Modaxo filed an emergency motion for a temporary restraining order in this newly filed diversity action. The district court denied the motion because Plaintiff failed to establish immediate irreparable harm and failed to show why notice and an opportunity to respond should be denied. The court declined to construe the motion as a request for a preliminary injunction and instructed Plaintiff to file a separate motion if it sought that relief.

DISPOSITION

denied

CASES CITED

- Schiavo ex rel. Schindler v. Schiavo, 403 F.3d 1223, 1225–26 (11th Cir. 2005)
- Levine v. Comcoa Ltd., 70 F.3d 1191, 1194 (11th Cir. 1995) (Hill, J., concurring)
- Am. Residential Servs., LLC v. Kennon Heating & Air Conditioning, Inc., No. 1:23-CV-02061, 2023 WL 4401616, at *2 (N.D. Ga. May 10, 2023)

OPINION

UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF FLORIDA JACKSONVILLE DIVISION MODAXO TRAFFIC MANAGEMENT USA, INC., Plaintiff, v. Case No.: 3:25-cv-1463-WWB-LLL SEAN COLLINS, Defendant. / ORDER THIS CAUSE is before the Court on Plaintiff’s Emergency Motion for Temporary Restraining Order (Doc. 3). Therein, Plaintiff seeks a temporary restraining order enjoining Defendant from using Plaintiff’s confidential information and directing Defendant to produce his electronics for inspection.

(Id. at 19). Pursuant to Federal Rule of Civil Procedure 65(b), a district court may issue a temporary restraining order “without written or oral notice to the adverse party” if the requesting party provides “specific facts... [that] clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition.” To obtain a temporary restraining order, the movant must establish: “(1) a substantial likelihood of success on the merits; (2) that irreparable injury will be suffered if the relief is not granted; (3) that the threatened injury outweighs the harm the relief would inflict on the non-movant; and (4) that entry of the relief would serve the public interest.” Schiavo ex rel.

Schindler v. Schiavo, 403 F.3d 1223, 1225–26 (11th Cir. 2005). Additionally, the moving party must present facts and evidence stating why “notice is impractical.” M.D. Fla. R. 6.01(b)(2). Plaintiff’s Motion falls short of showing the immediate irreparable harm required by Rule 65(b) and fails to provide any reason that notice and an opportunity to respond should be denied to Defendant. “An ex parte temporary restraining order is an extreme remedy to be used only with the utmost caution.” Levine v. Comcoa Ltd., 70 F.3d 1191, 1194 (11th Cir.

1995) (Hill, J., concurring). Plaintiff makes the blanket assertion that injury is sufficiently imminent because “Defendant has already stolen substantial confidential information from

Modaxo and continues to possess it while maintaining employment with a competing business.” (Doc. 3 at 18). Plaintiff, however, fails to provide the Court with any additional factual details to support its position that Defendant poses immediate harm or that his possession of information and work for a competitor—which Plaintiff has been aware of for nearly two months—is sufficient to satisfy the requirements for ex parte relief.

(See Doc. 1, ¶¶ 36–42). Conclusory statements of imminent harm, without any supporting factual or legal basis, are not sufficient to meet Plaintiff’s burden. See *Am. Residential Servs., LLC v. Kennon Heating & Air Conditioning, Inc.*, No. 1:23-CV-02061, 2023 WL 4401616, at *2 (N.D. Ga. May 10, 2023). Furthermore, with respect to notice, Plaintiff only argues that it would be “futile” because Defendant has declined to respond to a cease and desist letter sent in October 2025.

(Doc. 1, ¶¶ 36–38; Doc. 3 at 18). Plaintiff fails to cite any legal authority in support of its proposition. Thus, it is not clear that notice and an opportunity to be heard should be denied to Defendant. For the reasons set forth herein, it is hereby ORDERED and ADJUDGED that Plaintiff’s Emergency Motion for Temporary Restraining Order (Doc. 3) is DENIED.

The Court will not treat the Motion as a request for Preliminary Injunction. Plaintiff must file a separate motion to the extent it wishes to seek such relief. DONE AND ORDERED in Jacksonville, Florida on November 26, 2025. WENDY W. B UNITED STATES T JUDG Copies furnished to: Counsel of Record