

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
MISSISSIPPI, OXFORD DIVISION

Carl Joseph Fulmer v. EZ Auto, Inc., et al.

No. 3:26-cv-00121-JDM-RP, United States District Court for the Northern District of Mississippi, Oxford
Division (May 27, 2026)

SUMMARY

The United States District Court for the Northern District of Mississippi denied Carl Joseph Fulmer’s emergency motion for a temporary restraining order and preliminary injunction seeking to prevent repossession of his 2015 Subaru Forester. The court held that no preliminary injunction could issue without notice to the defendants and that Fulmer failed to satisfy Federal Rule of Civil Procedure 65(b)(1)(B) by explaining why notice should not be required for an ex parte TRO.

CASE DETAILS

COURT	United States District Court for the Northern District of Mississippi, Oxford Division
WRITING FOR THE COURT	James D. Maxwell II
JURISDICTION	United States District Court for the Northern District of Mississippi, Oxford Division
DECIDED	May 27, 2026
DOCKET	3:26-cv-00121-JDM-RP
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for an emergency temporary restraining order and preliminary injunction to prevent defendants from repossessing his vehicle. The district court denied the motion.
STANDARD OF REVIEW	Not applicable; the court evaluated the emergency motion under Federal Rule of Civil Procedure 65.
PRECEDENTIAL VALUE	unknown

TOPICS

- injunctions
- civil procedure
- service of process

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the court could issue a preliminary injunction without notice to the adverse parties.
2. Whether the court could issue an ex parte temporary restraining order when the movant failed to provide specific reasons why notice should not be required.

HOLDINGS

1. The court could not issue a preliminary injunction because Federal Rule of Civil Procedure 65(a)(1) requires notice to the adverse party.
2. The court could not grant an ex parte temporary restraining order because Fulmer failed to provide reasons why notice should not be required, as required by Rule 65(b)(1)(B).

KEY QUOTATIONS

“Rule 65(a) allows a court to “issue a preliminary injunction only on notice to the adverse party.””

“A TRO may be issued without notice if “specific facts . . . clearly show that immediate and irreparable injury, loss, or damage will result to the movant . . . [and the movant] certifies in writing any efforts made to give notice and the reasons why it should not be required.””

“His failure to explain to this Court why notice should not be required is fatal to his TRO request.”

FACTUAL BACKGROUND

Fulmer owns or possesses a 2015 Subaru Forester subject to an asserted vehicle-payment obligation. He admittedly withheld payment, and the defendants allegedly sought to exercise self-help repossession. Fulmer sought injunctive relief, but the defendants had not been served with the complaint and summons or given notice of the preliminary-injunction motion. Although Fulmer stated that he was providing notice of the emergency motion to the extent practicable, he did not explain why notice of an ex parte TRO should not be required.

PROCEDURAL HISTORY

Fulmer filed suit and an emergency motion for temporary restraining order and preliminary injunction. The defendants had not been served with the complaint and summons and had not received notice of the preliminary-injunction request. The court denied the motion because the requirements for notice and for an ex parte TRO were not satisfied.

DISPOSITION

other

CASES CITED

- Merzaki v. Oktibbeha Cnty., No. 1:26-cv-49-GHD-DAS, 2026 WL 1011241, at *1 (N.D. Miss. Apr. 14, 2026)

- Brookville Schoolhouse Road Ests., LLC v. City of Starkville, No. 1:21-cv-135-SA-RP, 2021 WL 3891069, at *2 (N.D. Miss. Aug. 30, 2021)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF MISSISSIPPI OXFORD DIVISION CARL JOSEPH FULMER PLAINTIFF V. CAUSE NUMBER: 3:26-cv-00121-JDM-RP EZ AUTO, INC., et al. DEFENDANTS ORDER DENYING MOTION FOR TEMPORARY RESTRAINING ORDER OR PRELIMINARY INJUNCTION Before the Court is Plaintiff Carl Joseph Fulmer's Emergency Motion for Temporary Restraining Order and Preliminary Injunction.

[7] Fulmer seeks to prevent the defendants from exercising self-help repossession on his 2015 Subaru Forester. Fulmer seeks injunctive relief though he has admittedly withheld payment on the vehicle. Because the defendants have received neither the complaint nor notice of a preliminary injunction, this Court cannot grant an injunction. And because Fulmer provides no reasons why an ex parte temporary restraining order (TRO) should be granted without notice to the defendants, his motion is DENIED.

Rule 65(a) allows a court to "issue a preliminary injunction only on notice to the adverse party." FED. R. CIV. P. 65(a)(1) (emphasis added). Here, no defendant has been served a copy of the complaint and summons. And no defendant has been given notice of Fulmer's request for a preliminary injunction. So this Court cannot enjoin the defendants from repossessing Fulmer's Subaru.

While preliminary injunctions require notice to the adverse party, a TRO may be granted ex parte. But "these are disfavored and seldom granted." *Merzaki v. Oktibbeha Cnty.*, No. 1:26- cv-49-GHD-DAS, 2026 WL 1011241, at *1 (N.D. Miss Apr. 14, 2026). A TRO may be issued without notice if "specific facts... clearly show that immediate and irreparable injury, loss, or damage will result to the movant... [and the movant] certifies in writing any efforts made to give notice and the reasons why it should not be required." Fed.

R. Civ. P. 65(b)(1) (emphasis added). Though Fulmer claims he is "providing notice of this emergency motion to the extent practicable[.]" he provides no reasons why the defendants should not get notice of the TRO. His failure to explain to this Court why notice should not be required is fatal to his TRO request. See *Brookville Schoolhouse Road Ests., LLC v. City of Starkville*, No. 1:21-cv-135-SA-RP, 2021 WL 3891069, at *2 (N.D.

Miss. Aug. 30, 2021). Because Fulmer has not complied with Rule 65(b)(1)(B), the Court cannot grant an ex parte TRO. For these reasons, Fulmer's Emergency Motion for Temporary Restraining Order and Preliminary Injunction [7] is DENIED. SO ORDERED, this the 27th day of May, 2026.

/s/ James D. Maxwell II UNITED STATES DISTRICT JUDGE NORTHERN DISTRICT OF
MISSISSIPPI

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