

PRESENTED AT

2015 Non-Compete Camp

September 3, 2015

Dallas, TX

**Getting a TRO
Dissolving a TRO
Five Traps for the Unwary**

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By Art Lambert

For this topic, the first, and most important, question that needs to be asked is whether a temporary restraining order is the proper remedy? Sometimes it is not. If this is true and you go forward anyway and get the TRO you face the issues raised in the second part of this paper – a motion to dissolve the TRO. Here are some arguments both for and against getting a TRO.

First, the Rules

The procedure for obtaining a TRO is contained in the Texas Rules of Civil Procedure. Some of the pertinent rules are:

Tex. R. Civ. P. 680

Temporary Restraining Order

No temporary restraining order shall be granted without notice to the adverse party unless it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before notice can be served and a hearing had thereon. Every temporary restraining order granted without notice shall be endorsed with the date and hour of issuance; shall be filed forthwith in the clerk's office and entered of record; shall define the injury and state why it is irreparable and why the order was granted without notice; and shall expire by its terms within such time after signing, not to exceed fourteen days, as the court fixes, unless within the time so fixed the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The

reasons for the extension shall be entered of record. No more than one extension may be granted unless subsequent extensions are unopposed. In case a temporary restraining order is granted without notice, the application for a temporary injunction shall be set down for hearing at the earliest possible date and takes precedence of all matters except older matters of the same character; and when the application comes on for hearing the party who obtained the temporary restraining order shall proceed with the application for a temporary injunction and, if he does not do so, the court shall dissolve the temporary restraining order. On two days' notice to the party who obtained the temporary restraining order without notice or on such shorter notice to that party as the court may prescribe, the adverse party may appear and move its dissolution or modification and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

Every restraining order shall include an order setting a certain date for hearing on the temporary or permanent injunction sought.

Tex. R. Civ. P. 682

Sworn Petition

No writ of injunction shall be granted unless the applicant therefor shall present his petition to the judge verified by his affidavit and containing a plain and intelligible statement of the grounds for such relief.

Tex. R. Civ. P. 683

Form and Scope of Injunction or Restraining Order

Every order granting an injunction and every restraining order shall set forth the reasons for its issuance; shall be specific in terms; shall describe in reasonable detail and not by reference to the complaint or other document, the act or acts sought to be restrained; and is binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise.

Every order granting a temporary injunction shall include an order setting the cause for trial on the merits with respect to the ultimate relief sought. The appeal of a temporary injunction shall constitute no cause for delay of the trial.

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[What you need to Know about TROs and Temporary Injunctions](#)

First appeared as part of the conference materials for the
2015 Non-Compete Camp session

"Getting a TRO, Dissolving a TRO: Five Traps for the Unwary"