

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
CHAMPAIGN COUNTY, ILLINOIS

JIM McGUIRE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No: 2022CH
	)	
AARON AMMONS, COUNTY CLERK,	)	
CHAMPAIGN COUNTY, ILLINOIS, and	)	
MICHELLE JETT, DEPUTY COUNTY CLERK,	)	
CHAMPAIGN COUNTY, ILLINOIS,	)	
	)	
Defendants.	)	

**MOTION TO DISSOLVE TEMPORARY RESTRAINING ORDER**

**COMES NOW**, Aaron Ammons, Champaign County Clerk, and Michelle Jett, Deputy County Clerk, by the undersigned Assistant State's Attorney of the Champaign County State's Attorney's Office, who move to dissolve the Temporary Restraining Order issued by this Court on November 4, 2022 (TRO), and in support of said motion states as follows:

Overview

1. The Court has the inherent power to review, modify, or vacate an interlocutory order, including a temporary restraining order, at any time before final judgment. Rochester v. Buckhart Action Group v. Young, 379 Ill. App.3d 1030, 1034, 887 N.E.2d 49, 53 (2008).
2. A TRO may be resolved on 2 days' notice to the party who obtained it without notice, "or on such shorter notice to that party as the Court may prescribe". See 735 ILCS 5/11-101. This section gives the Defendants a right to file a motion to dissolve when a TRO is issued without notice. Harper v. Missouri Pac. R.R., 264 Ill.App.3d 238 (1994). Defendants hereby seek an order from this Court dissolving the TRO and directing shorter notice to Plaintiff, due to the immediate, significant, and irreparable harm caused by the TRO, as documented in the attached affidavit from Michelle Jett.

The TRO without notice is procedurally defective

3. Every TRO granted without notice must state why it was granted without notice. See 735 ILCS 5/11-501. These statutory provisions are not mere technicalities. Bettendorf-Stanford Bakery Equip. Co. v. Int'l Union of United Auto., Aero & Agric. Implement Workers of Am. UAW, Local 1906, 49 Ill. App.3d 20, 23, 363 N.E.2d 867, 869 (1977); see also Hawthorne Bank of Wheaton v. Village of Glen Ellyn, 154 Ill.App.3d 661, 506 N.E.2d 988 (1987).

4. Notice and the right to be heard is at the bedrock of our system of jurisprudence. Quigg v. Saleem, 2022 IL App(4<sup>th</sup>) 220720, Par. 19 (attached, with emphasis).
  - a. When a TRO is issued without notice in a case where notice should have been given, it will be reversed without regard to any other question. Id. Some notice, however informal, is greatly preferred to none at all, and as little as 30 minutes notice, by telephone, has been held to be sufficient. Id.
  - b. Here, the TRO does not contain any statement of why it was granted without notice. The TRO was issued at 6:40pm on Friday, November 4, 2022, and is based upon alleged observations that occurred on October 24<sup>th</sup>, 2022, over ten days prior to its issuance. The Complaint for TRO details steps and time taken to notify numerous officials. The Plaintiff is both the Chairman of the Champaign County Republican Central Committee and a County Board member, and has ample access and ability to provide notice. Plaintiff's counsel has litigated against Champaign County officials before and has ample access and ability to provide notice. No reason is given why notice could not have been provided, at least by telephone call, prior to the issuance of the TRO.
  - c. Counsel for Defendants learned of this suit and this TRO when she was informed about it from local news media: If there was time to call a reporter, there was time to call Defendants.
5. A Complaint for TRO must be verified. See Exchange Nat. Bank of Chicago v. Cullerton, 17 Ill. App.3d 392, 394, 308 N.E.2d 284, 286 (1974).
  - a. The Certification is unnotarized<sup>1</sup>. A statement that purports to be verification that is not sworn to before someone authorized by Illinois law to administer an oath is without legal effect. People v. Urzua, 2021 IL App.(2d) 200231, Par. 81, 184 N.E.3d 526, 543 (2021).
  - b. The Certification attached to the Complaint is dated "2/21/2022" and was purportedly signed by Plaintiff McGuire on February 21, 2022, prior to the date of the observations supporting the Complaint: It is either patently false, or so compromised by a typo that it is effectively undated.

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<sup>1</sup> The affidavit in support of this motion to dissolve the TRO is also not notarized, because it had to be prepared after business hours on November 4, 2022, to prevent disruption of the November 8, 2022, election. Michelle Jett will swear to the affidavit before the Court when this motion to dissolve is heard.

The substantive standards for issuing a TRO

6. The purpose of a TRO is to preserve the status quo until a hearing on a preliminary injunction. Citizens Utilities Co. of Ill. v. O'Connor, 116 Ill. App.3d 369, 451 N.E.2d 946 (1983).
7. The grant or denial of injunctive relief such as a TRO is a matter within the trial court's discretion. Abbinanti v. Presence Central and Suburban Hospitals Network, 2021 IL App (2d) 2107763, Par. 15, 191 N.E.3d 1265, 1271 (2021). A party seeking a TRO must demonstrate that there is a fair question as to each of the following: (1) a clear right in need of protection; (2) irreparable injury in the absence of an injunction; (3) no adequate remedy at law; and (4) a likelihood of success on the merits of the case. Id. The failure to establish any one of these elements is a sufficient basis to deny a request for a TRO. Id.
8. In addition, the Court must determine whether the balance of hardships to the parties supports grant of the TRO. Hutsonville Comm'ty Unit School Dist. No. 1 v. Ill. High School Assoc., 2021 IL App(5<sup>th</sup>) 210308, Par. 21, 195 N.E.3d 798, 805-06 (2021).
9. A TRO is an extraordinary remedy. Essential facts relied upon for relief by injunction must be stated with sufficient certainty to negative every reasonable inference arising from the facts stated inconsistent with the claim to relief. Hadley v. Ill. Dept of Corrections, 362 Ill. App.3d 680, 684-85, 840 N.E.2d 748, 753 (2005). Upon demurrer, every allegation of the complaint is taken most strongly against the pleader. Id.

Plaintiff does not have a high likelihood of success on the merits of this case

10. The Complaint for TRO purports to allege a violation of a provision of the Election Code related in part to the transportation of ballots: The election authority is to deliver the ballots in separate sealed packages, with marks on the outside clearly designating the polling place for which they are intended, and the number of ballots enclosed. Upon delivery, the election authority is to give a receipt for the ballots to the election judges to whom they are delivered, with a receipt to be preserved by the election authority. See 10 ILCS 5/16-5.
11. Jett is the Deputy County Clerk in charge of Election related functions in the Champaign County Clerk's Office. Her election-related duties this weekend are set forth in the attached affidavit from Jett. The TRO suggests in a conclusory manner that Jett violated this provision in that she transported ballots in an unsealed condition, as is purportedly documented in photographs appended to the TRO complaint.
12. Plaintiff does not allege that any purportedly unlawful ballot was ever submitted for tallying in any polling place. The very premise of the Complaint is that the documents at issue were laying loose in a messy vehicle.

13. The attached affidavit from Jett demonstrates that Jett was not, in fact, delivering ballots as that term is used in 10 ILCS 5/16-5, but was instead delivering polling place test ballots, documents used to confirm the proper operation of election equipment at each polling place.
14. If Jett's account is true, there is no violation of 10 ILCS 5/16-5. The pertinent provision of the Election Code is in Article 16 of the Election Code. The scope of that Article is defined as follows:

"In all elections hereafter to be held in this state for public officers, the voting shall be by ballots printed and distributed at public expenses as provided in this article and no other ballots shall be used". 10 ILCS 5/16-1.

  - a. Black's Law Dictionary defines a ballot as a "An instrument, such as a paper or ball, used for casting a vote."
  - b. This Article only imposes limits on voting by ballot and does not impose limits on any paper which happens to have the rough form of a ballot and is not used for voting.
15. Jett's account of the purported ballots observed is credible and is supported by the very photographs submitted in support of the complaint for TRO. According to Jett's account, the unsealed ballots are easily distinguished from actual ballots in that they have a notch cut from the corner. While the corner of the ballot depicted in the exhibit to the Complaint is obscured, the corner of the ballot depicted on the car seat clearly has the notch cut from the corner, as Jett described. The photograph appended as an exhibit to the TRO Complaint does not establish any voting ovals were filled out on the purported ballot, indicating a voter had filled out the ballot.
16. As a practical matter, it would make no sense to attempt to fraudulently alter election results by: Leaving fraudulently-generated ballots in plain view on the front seat of the car of an election official; and transporting a few unsealed fraudulent ballots to an election polling place.
17. If there were fraudulent activity in the form of unlawfully adding executed unsealed ballots to the sealed ballots delivered to the polling place, this would be readily apparent in that the election judges would receive the ballots in unsealed condition; and the record of votes cast would not match the record of persons who signed into vote.
18. Discovery recounts and election contests for elections using Optical Scan Technology are provided for by the Election Code, see 10 ILCS 5/24B-15.1. Such measures include statutory safeguards such as "(a) the ballots shall be checked for the presence or absence of judges' initials and other distinguishing marks, and (b) the ballots marked "Rejected",

“Defective”, “Objected To”, “Early Ballot”, and “Vote by Mail Ballot” shall be examined to determine the propriety of the labels, and (c) the “Duplicate Vote by Mail Ballots”, “Duplicate Overvoted Ballots”, “Duplicate Early Ballot”, and “Duplicate Damaged Ballots” shall be compared with their respective originals to determine the correctness of the duplicates. Any person who has filed a petition for discovery recount may request that a redundant count be conducted in those precincts in which the discovery recount is being conducted.” 10 ILCS 5/24B-15.1. Furthermore, “The log of the computer operator and all materials retained by the election authority in relation to vote tabulation and canvass shall be made available for any discovery recount or election contest.” 10 ILCS 5/24B-15.1

Plaintiff has adequate remedies at law: the TRO is not a necessary remedy

19. The primary method of challenging the results of an election is through Article 23 of the Election Code. See 10 ILCS 5/23-1, et seq. “Election contests [under Article 23] have been the subject of litigation in the courts for at least a century, during which time an entire body of case law has developed to explain the law of election contests”. Torres v. Bd. of Election Comm’rs, 142 Ill. App.3d 955, 957, 492 N.E.2d 539, 541 (1986).
20. In light of the ready ability to uncover any potential fraud after the election through the means described in Paragraph 18 and 19, a TRO is not a necessary remedy at law.

The TRO imposes a significant and immediate hardship on Defendants and the public as a whole

21. It would pose significant hardship to the public administration of the November 8, 2022, election to bar Jett from performing her election-related duties.
22. As the attached affidavit demonstrates, Jett has significant and unique responsibilities with respect to the administration of this Election, and it would require significant effort to substitute other Deputies for her. Other staff is not trained, equipped or authorized by the County Clerk to make her decisions in the administration of the election, and these duties cannot be reassigned on short notice.

The risk of harm to Plaintiff’s interest suggested by the TRO Complaint is overstated

23. Given the protections in place described above, there is little risk that the conduct described in the Complaint for TRO will affect the upcoming election.
24. Plaintiff’s own delay in seeking this relief until 10 days after the alleged conduct demonstrates that Plaintiff does not view the risk of harm as imminent.

A TRO is not necessary to preserve the status quo

25. A preliminary injunction (or TRO) is not proper where it seeks to change the status quo of the parties rather than preserve it. Baal v. McDonald's Corp., 97 Ill. App.3d 495, 501-02, 422 N.E.3d 1166, 1172 (1981).
24. As discussed in Jett's affidavit, the bar on Jett's performance of her public duties would significantly impact the administration of the election
25. If taken as true, the documents tendered in support of the TRO suggest that, from October 24, 2022, through November 4, 2022, the supposed harm alleged by Plaintiff went unaddressed, with no notice to the Defendants, and no request for a TRO.
26. Rather, the Complaint for TRO and documents tendered in support thereof indicate Plaintiff wishes to circumvent the investigation of law enforcement which have been performing their duties by presenting the court with limited and self-serving allegations.

**WHEREFORE**, the Defendants requests this Court dissolve the TRO issued November 4, 2022.

**Respectfully submitted,**

\_\_\_\_\_  
Julia Rietz,  
State's Attorney

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## Affidavit of Michelle Jett

I, Michelle Jett, affirm and certify as follows:

1. I am employed by the Champaign County Clerk as the Director of Operations and as an election judge. I have served in that capacity for two years.
2. As Director of Operations, I am the direct supervisor of all election staff, technical staff, and election judges. I facilitate and organize all logistics of Election Day and early voting, including setting up polling locations along with my team, providing real time technical and executive support to election judges, working with administrative staff on election logistics, serving as crisis management on election day, monitoring and performing reporting functions to the Illinois State Board of Elections, and directing and administering all canvass and counting activities after polls close on Election Day. No other person is trained, equipped, or authorized by the County Clerk to make the full range of decisions I make in the administration of the election, and these duties cannot be reassigned on short notice.
3. In Champaign County, official ballots are printed on demand at the polling locations. In accordance with Illinois law, 10 ILCS 5/16-5, ballot paper is provided to the polling places in separate sealed packages, with marks on the outside clearly designating the polling place for which they are intended and the number of ballots enclosed. Every site receives at least one container sealed with two zip ties with individual markers recorded on a seal on the case to confirm the zip ties have not been tampered with. The ballot paper inside is blank and shrink wrapped. The paper is rectangular and not notched in the corner. The case is opened in the presence of two election judges, one from each political party, who sign off on the receipt of the case and document the integrity of the paper on the official ballot record immediately before the polling site is opened. At that point the paper is opened by the election judges and distributed to the printers. When a voter checks in, the election judge prints the appropriate ballot and initials the top right corner of the printed ballot. The voter fills out the ballot and presents the initialed part to the election judge at the tabulator before the voter is allowed to insert the ballot in the tabulator. Any ballots that are not correctly initialed by the judges from the check in station are refused and returned to the check in station for review. Each ballot that

is inserted in the tabulator is counted, and the election judges compare the check-in signature book with the public counter on the tabulator throughout the day to confirm that the same number of voters checked in as inserted ballots in the tabulator. After the polls close, election judges confirm that whole process again, checking the signatures on the check-in book with the ballots in the tabulator to confirm the number of voters is equal to the number of ballots in the tabulator. Judges from both political parties certify that the number of ballots is accurate. Election judges count any leftover blank ballot paper and certify the number of blank pages. Election judges then return completed ballots, spoiled ballots, damaged ballots and blank ballot paper to the Clerk's Office. With regard to mail-in ballots, the ballot must be returned with the provided envelope sealed and signed by the registered voter who requested the ballot. Any attempt to return a vote by mail ballot without an envelope would be rejected, and any attempt to return a vote by mail ballot in an envelope without the registered signature would be diverted into the challenged 'cure' process and not submitted into any tabulator unless or until completely cured as provided for by law under the watch of election judges from both political parties. Election judges from both political parties must be present and are present for each step of the vote by mail process, ensuring that no unaccounted-for ballots are submitted via vote by mail either. Vote by mail ballots are also printed on demand per voter request, and are rectangular and are not notched in the corner. These redundancies and confirmations are a small number of the checks and balances put in to protect the integrity of the voting process and do not even include the post-election processes required by the Illinois State Board of Elections. It would be virtually impossible for unlawful anonymous ballots to reach a ballot box or tabulator, and even if they reached a ballot box or tabulator the discrepancy would be caught in the daily verification checks which confirm that the number of ballots submitted into the tabulator match the number of verified voter signatures, whether that be at polling locations or on vote by mail envelopes.

4. One of my responsibilities in setting up polling locations is to test laptops and printers to ensure they are operating properly prior to the opening of the polling locations. Testing of the laptops and printers prior to the opening of the polling places is done by creating test ballots using unofficial test ballot paper. The polling location test ballot paper is distinguishable from



the official ballots by a cut out notch in the upper left corner of the paper. We do not use official ballots or official ballot paper from the sealed packages in the polling location testing process. When setting up polling places I create test ballots on the notched test ballot paper using my personal voting information for my home precinct, City of Champaign 38. I pull up my voter information on the laptop to test the laptop, and I print out a test ballot to test the printer. I also write "spoiled" or otherwise deface the test ballot. I do not fill in any ovals on any of the test ballots. I do not finalize the voting process or run the test ballots through the tabulator. I take the test ballots to the Clerk's Office where they are placed in the designated shred bin and destroyed. This has been the process used throughout my time as Director of Operations.

5. On Friday, October 21, 2022, I left the Election services Building between 9:30AM-10AM in my personal vehicle and proceeded to set up four early voting sites to open on the following Monday. The process of setting up an early voting site includes setting up the voting booths, check in table, assisted voting device, and tabulator. After all the equipment was installed, I tested the laptops and printers used to check voters in for voting and print ballots. I accomplished this by following the procedure outlined in paragraph 4 above.

6. On Monday, October 24, 2022, I left the Election Services Building between 10AM-10:30AM in my personal vehicle and proceeded to set up early voting sites at three locations. I tested the laptops and printers used to check voters in for voting and print ballots. I followed the procedures as outlined in paragraph 4 above.

7. When the set up was complete I removed all test prints and the test paper that I brought into the polling location specifically for set up test printing from the polling location. As I was driving from location to location, I kept the materials in my car as I was setting up sites or providing opening day support between October 21 and 24. After October 24, I removed the test prints from my car and placed them in the designated shred bin in the Clerk's Office. Any test prints seen in my car on Monday, October 24, 2022, would have been a result of my work setting up polling locations as outlined above.

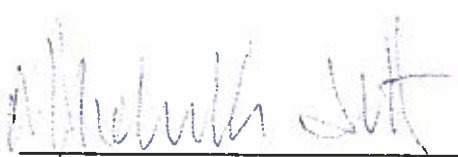
8. I did not transport unsealed, official ballots in my car or circulate official ballots outside the chain of custody and control required by the Illinois Election Code, but rather transported spoiled polling location test ballots and disposed of them properly in accordance with the procedure and policy of the Champaign County Clerk's Office and in accordance with Illinois law. As a deputy clerk and as an election judge I swore an oath to uphold the state and federal constitution and protect the integrity of elections in Champaign County and I have never violated that oath.

9. The County Clerk's Office is responsible for running 21 early voting sites that are open November 5, 6 and 7, 2022. I am responsible for providing support to election judges, both with regards to legal and procedural questions, and technical support at all those sites. If I were not able to fulfill my responsibilities it is likely that Champaign County voters would suffer irreparable harm because they may have difficulty or may not be able to cast their ballots for this election cycle.

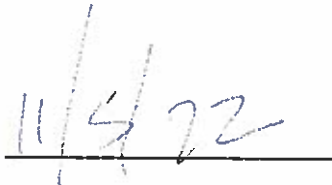
10. I learned of the temporary restraining order from Aaron Ammons, who was, in turn told of it by his counsel, who learned of it from local news media.

Further Affiant Sayeth Naught

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, I, Michelle Jett, certify that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief, and as to such matters I certify as aforesaid that the statements are true and correct to the best of my knowledge and belief.



Michelle Jett



Date



Cited

As of: November 5, 2022 7:04 AM Z

## Quigg v. Saleem

Appellate Court of Illinois, Fourth District

August 26, 2022, Filed

NO. 4-22-0720

### Reporter

2022 IL App (4th) 220720 \*; 2022 Ill. App. LEXIS 375 \*\*

LORI QUIGG, Plaintiff-Appellee, v.  
MOHAMMED SALEEM, REBECCA L.  
STOCKER, and QUIGG ENGINEERING, INC.,  
an Illinois Corporation, Defendants;  
(Mohammed Saleem, Defendant-Appellant).

**Prior History:** **[\*\*1]** Appeal from the Circuit  
Court of Morgan County. No. 22LA13.  
Honorable John M. Madonia, Judge Presiding.

**Disposition:** Reversed and remanded.

### Core Terms

notice, trial court, verified complaint,  
allegations, preliminary injunction, minutes,  
stock sale, proceedings

### Case Summary

#### Overview

**HOLDINGS:** [1]-Entry of a TRO against defendants without notice to them in plaintiff's declaratory action alleging breach of a stock sale agreement was error under [735 ILCS 5/11-101](#) because the complaint confirmed that the parties, and their attorneys, had been in discussions, copies of documents attached to the complaint required the parties to give notice of any breach and listed the parties' attorneys, defendants' counsel was located close to the courthouse where the oral TRO motion was heard, and no excuse existed to not make a phone call and attempt

participation remotely. Moreover, the TRO merely recited conclusory allegations from the complaint of the potential harm without a TRO, and nothing as to why providing notice threatened imminent harm to the corporation.

### Outcome

Reversed and remanded.

### LexisNexis® Headnotes

Civil Procedure > Appeals > Standards of  
Review > Abuse of Discretion

Civil

Procedure > Remedies > Injunctions > Tem  
porary Restraining Orders

#### **HN1** **Standards of Review, Abuse of Discretion**

When reviewing a trial court's entering a TRO without notice, the appellate court considers two separate issues: (1) whether the trial court abused its discretion by entering a TRO and (2) whether the trial court erred by entering the TRO without notice.

Civil

Procedure > Remedies > Injunctions > Tem  
porary Restraining Orders

**[HN2\[↓\]](#) Injunctions, Temporary Restraining Orders**

A trial court cannot enter a temporary restraining order 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. [735 ILCS 5/11-101](#) (2020). Injunctive relief without notice is an extraordinary remedy appropriate only under the most extreme and urgent circumstances. The critical inquiry in all cases of this nature is whether, during the period it takes to give notice, the opponent will take such measures as to destroy the substance of the litigation or otherwise obstruct the court from dealing effectively with the issues.

Constitutional Law > ... > Fundamental Rights > Procedural Due Process > Scope of Protection

**[HN3\[↓\]](#) Procedural Due Process, Scope of Protection**

Notice and the right to be heard is at the bedrock of our system of jurisprudence. Some notice, however informal, is greatly to be preferred to none at all. As little as 30 minutes notice, provided by telephone, has been held to be sufficient. Such informal notice is particularly required when the parties or their attorneys are familiar with one another, have engaged in discussions, and are able to appear in court within minutes. When an injunction is issued without notice in a case where notice should have been given, the appellate court will reverse the order upon that ground without regard to any other question.

Civil

Procedure > ... > Injunctions > Grounds for Injunctions > Irreparable Harm

Civil

Procedure > Remedies > Injunctions > Temporary Restraining Orders

**[HN4\[↓\]](#) Grounds for Injunctions, Irreparable Harm**

The party seeking a temporary restraining order (TRO) without notice cannot rely on subsequent proceedings to overcome a lack of specificity of factual allegations showing that immediate and irreparable injury will occur in the minutes or hours it takes to provide notice and conduct a hearing. Whether a TRO was properly granted without notice presents a binary question; the allegations of the affidavits or verified complaint either provide sufficient factual detail to make the statutory showing or they do not. If the TRO hearing without notice is deficient, nothing presented thereafter can overcome that deficiency. Similarly, a trial court cannot rely on information learned after issuing the TRO without notice to excuse its error in granting that TRO.

Civil

Procedure > Remedies > Injunctions > Temporary Restraining Orders

**[HN5\[↓\]](#) Injunctions, Temporary Restraining Orders**

Illinois law makes clear that granting a temporary restraining order (TRO) without notice is an extraordinary remedy and disfavored in all but the most extreme and urgent circumstances. Given this context and the difficulty in obtaining timely appellate review, reviewing courts will not tolerate the reliance on evidence presented after a TRO has been issued to excuse a plaintiff's failure to make an adequate showing in the first

instance.

**Counsel:** David P. Hennessy and Dylan P. Grady, of Brown, Hay & Stephens, LLP, of Springfield, for appellant.

Howard W. Feldman and Stanley N. Wasser, of Feldman Wasser, of Springfield, for appellee.

**Judges:** JUSTICE STEIGMANN delivered the judgment of the court, with opinion. Presiding Justice Knecht and Justice DeArmond concurred in the judgment and opinion.

**Opinion by:** STEIGMANN

## Opinion

JUSTICE STEIGMANN delivered the judgment of the court, with opinion.

Presiding Justice Knecht and Justice DeArmond concurred in the judgment and opinion.

## OPINION

**[\*P1]** On August 1, 2022, plaintiff, Lori Quigg, filed a verified complaint and motion for preliminary injunction against defendants, Mohammed Saleem, Rebecca L. Stocker, and Quigg Engineering, Inc., seeking (1) a declaratory judgment that Saleem had breached the terms of a stock sale agreement with Quigg and (2) injunctive relief pursuant to the terms of that agreement. Two days later, on August 3, 2022, Quigg made an oral motion for a temporary restraining order (TRO) without notice to defendants. The trial court granted the motion and entered a TRO.

**[\*P2]** Subsequently, **[\*\*2]** Saleem filed a motion to dissolve the TRO. The trial court conducted a hearing on that motion on August 16, 2022, denied it, and ordered the TRO to

remain in effect until a preliminary injunction hearing or a full trial on the merits could be conducted.

**[\*P3]** Saleem appeals, arguing, among other things, that the trial court erred by entering the TRO without notice. We agree, reverse, and remand for further proceedings.

## **[\*P4]** I. BACKGROUND

**[\*P5]** On August 1, 2022, Quigg filed a verified complaint and a motion for a preliminary injunction. Quigg's complaint alleged that she had entered into a stock sale agreement with Saleem for the sale of her 90% interest in Quigg Engineering, Inc. (QEI). Quigg owned 90% of QEI's shares, and Stocker owned the remaining 10%. They both agreed to sell their shares to Saleem for a total of roughly \$8 million. Quigg and Stocker financed the purchase by retaining their shares as collateral until Saleem paid in full. Under the terms of the agreement, upon its execution, Saleem became the sole owner of QEI.

**[\*P6]** Quigg's complaint also alleged that Saleem had breached the stock sale agreement in multiple ways, including (1) making late payments, (2) failing to provide adequate documentation, **[\*\*3]** and (3) defaulting on an operational loan from the Bank of Springfield. Quigg's complaint further alleged, "on information and belief," that Saleem had been telling QEI's clients (mainly the Illinois Department of Transportation and other governmental bodies) that QEI could not perform its government contracts and he intended to close the business. Quigg maintained that, as the primary shareholder, she would be irreparably injured if Saleem were not enjoined from operating the business as he was.

**[\*P7]** Quigg further alleged in her verified

complaint that "[i]n response to communications by Quigg either directly or through her attorneys to Saleem and/or his attorneys, Saleem has denied that he is in breach of his agreements with Quigg."

**[\*P8]** On August 3, 2022, the trial court conducted a hearing at Quigg's request for a TRO without providing notice to Saleem. Quigg made an oral motion for a TRO and personally appeared to give testimony to the trial court in lieu of an affidavit in support of her motion.

**[\*P9]** The trial court granted the motion and entered a TRO preventing Saleem from changing any of the standard operations of the company in place prior to the filing of the complaint. In its order, the **[\*\*4]** court wrote the following:

"Plaintiff has shown through sworn testimony that there is a strong probability that serious further irreparable damage to Quinn [sic] Engineering, Inc. will occur if notice is served prior to a hearing on Plaintiff's Motion for Temporary Restraining Order, which harm to the company directly harms Plaintiff's collateral and irreversibly affects continued functioning of the business, specifically, the company stands to experience payroll lapses affecting dozens of employees, disruptions in their current contracts for public service, and potentially irrecoverable corporate funds from misappropriation that will be caused by unpreventable contract breaches if a TRO is not granted as requested."

**[\*P10]** On August 9, 2022, Saleem filed a motion to dissolve the TRO, arguing (1) notice could have and should have been provided before the trial court conducted a hearing on Quigg's request for a TRO, (2) the trial court applied the incorrect standard, (3) Quigg's verified complaint failed to make an adequate showing she was entitled to relief, and (4) the

court should have required bond.

**[\*P11]** On August 16, 2022, the trial court conducted a hearing on the motion to dissolve. At the **[\*\*5]** hearing, Saleem also argued that the court erred by considering oral testimony from Quigg because the statute required an affidavit or verified complaint. Regarding the *ex parte* hearing, Quigg's counsel told the court

"We came in, if you will recall, and said that right after we gave notice of the filing of the complaint and the Motion for Prelim[inary injunction], all of a sudden things started in our view to unravel. \*\*\* We needed to stop something now or else there was going to be harm and it was going to change literally the *status quo* before we could even get to a Preliminary."

Quigg's counsel made a few similar statements concerning "dramatic changes to the company which basically were materially and adversely affecting the ability of this company to operate." However, counsel did not provide any specifics.

**[\*P12]** After a long discussion, the trial court expressed its dissatisfaction with the procedural posture of the case and the representations made to it at the TRO hearing. In particular, the court noted it apparently misapprehended the nature of the allegations made at the TRO hearing and the relief the court, in fact, granted. The court further acknowledged it should not have considered **[\*\*6]** oral testimony. Ultimately, however, the court concluded that, relying solely on the verified complaint, Quigg had made an adequate showing for a TRO without notice and the TRO was necessary to preserve the *status quo* until a preliminary injunction hearing. The court ordered the TRO to remain in effect until October 4, 2022, when it would conduct either (1) a preliminary injunction hearing or (2) a full trial on the



merits of the complaint.

[\*P13] This appeal followed.

## [\*P14] II. ANALYSIS

[\*P15] Saleem appeals, arguing, among other things, the trial court erred by entering the TRO without notice. We agree and reverse and remand for further proceedings.

[\*P16] [HN1](#) When reviewing a trial court's entering a TRO without notice, the appellate court considers two separate issues: (1) whether the trial court abused its discretion by entering a TRO and (2) whether the trial court erred by entering the TRO *without notice*. In this case, we address only the second issue and conclude that nothing in the record supports a showing that notice could not have been given. Because our conclusion that the trial court erred by entering the TRO without notice is dispositive of this appeal, we need not and do not address whether Quigg [\*7] could have or did establish the other elements for granting a TRO.

### [\*P17] A. The Applicable Law

[\*P18] [HN2](#) A trial court cannot enter a TRO 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." [735 ILCS 5/11-101](#) (West 2020). "Injunctive relief without notice is an extraordinary remedy appropriate only under the most extreme and urgent circumstances." [Hirschauer v. Chicago Sun-Times](#), 192 Ill. App. 3d 193, 201, 548 N.E.2d 630, 139 Ill. Dec. 245 (1989). "The critical inquiry in all cases of this nature is whether, during the period it takes to give notice, the opponent will take such

measures as to destroy the substance of the litigation or otherwise obstruct the court from dealing effectively with the issues." [G&J Parking Co. v. City of Chicago](#), 168 Ill. App. 3d 382, 387, 522 N.E.2d 774, 119 Ill. Dec. 112 (1988); see also [Board of Education of Community Unit School District No. 101 v. Parlor](#), 81 Ill. App. 3d 667, 669, 402 N.E.2d 388, 37 Ill. Dec. 498 (1980) (describing the "critical inquiry" as "whether in the minutes or hours necessary to procure defendant's appearance, defendant could and would take such action as to obstruct seriously the court from dealing justly and effectively with the issues in dispute"), *aff'd*, 85 Ill. 2d 397, 424 N.E.2d 1152, 54 Ill. Dec. 249 (1981).

[\*P19] [HN3](#) "Notice and the right to be heard \*\*\* is at the bedrock of our system of jurisprudence." [Hill v. Village of Pawnee](#), 16 Ill. App. 3d 208, 209-10, 305 N.E.2d 740 (1973). "[S]ome notice, however informal, [\*8] is greatly to be preferred to none at all." (Internal quotation marks omitted.) [Nagel v. Gerald Dennen & Co.](#), 272 Ill. App. 3d 516, 521, 650 N.E.2d 547, 208 Ill. Dec. 853 (1995) (collecting cases). As little as 30 minutes notice, provided by telephone, has been held to be sufficient. [American Warehousing Services, Inc. v. Weitzman](#), 169 Ill. App. 3d 708, 715 (1988). Such informal notice is particularly required when the parties or their attorneys are familiar with one another, have engaged in discussions, and are able to appear in court within minutes. See, e.g., [Hawthorne Bank of Wheaton v. Village of Glen Ellyn](#), 154 Ill. App. 3d 661, 671, 506 N.E.2d 988, 107 Ill. Dec. 97 (1987); [Parlor](#), 81 Ill. App. 3d at 670-71. "[W]hen an injunction is issued without notice in a case where notice should have been given, this court will reverse the order upon that ground without regard to any other question." (Internal quotation marks omitted.) [Hill](#), 16 Ill. App. 3d at 211 ("While the record reveals that the pleadings contained allegations to support the issuance of a

preliminary injunction with notice and with bond, it does not support the issuance of the interlocutory relief sought without notice to defendant."); see also [\*G&J Parking Co.\*, 168 Ill. App. 3d at 387-88](#).

**[\*P20]** B. This Case

**[\*P21]** Here, Quigg's verified complaint confirmed that the parties, *and their attorneys*, had been in discussions about (1) whether Saleem had breached the agreement and (2) who was in control of QEI. In addition, the copies of the documents comprising the stock sales agreement, which were attached to the complaint, required **[\*\*9]** the parties to give notice of any breach and listed the parties' attorneys.

**[\*P22]** In his brief on appeal, Saleem represents that the parties' attorneys were engaged in discussions about the subject matter of the lawsuit at the time the complaint was filed. Notably, Quigg does not challenge or address this representation. It appears Saleem's Springfield counsel, his counsel in the trial court and on appeal, filed Saleem's motion to dissolve on August 9, 2022, and may have been involved in the case earlier. If this is true, we take judicial notice of the fact that the office of Saleem's counsel is located just a few blocks from the Sangamon County courthouse where the oral motion for TRO was heard. (We note that the TRO hearing occurred in Sangamon County because the trial court's docket in Morgan County could not accommodate the emergency hearing.) But even if Quigg communicated only with Saleem's Chicago attorneys, who were designated in the stock sales agreement, no excuse exists to not make a phone call and attempt participation remotely. These circumstances suggest a reasonable probability that Saleem's counsel could have appeared at the hearing at which Quigg

requested a TRO within mere **[\*\*10]** minutes of receiving notice. See [\*Weitzman\*, 169 Ill. App. 3d at 715](#) (holding 30 minutes' notice by phone was sufficient because (1) the defendant's attorney could have attended the hearing and (2) the plaintiff "faced \*\*\* imminent disruption of its business operations"). Under these circumstances, the trial court erred by not requiring or attempting at least informal notice such as a phone call prior to issuing its TRO.

**[\*P23]** We acknowledge that a case could exist in which a plaintiff seeking a TRO would be able to show that providing notice to a defendant would probably result in the destruction of the object of the litigation. However, that is clearly not this case. Nothing in this record comes close to supporting such a showing. Indeed, the verified complaint details allegations of breach dating back months. Even the allegations related to defaulting on a bank loan for daily operating expenses stem from a June 2022 notice from the bank.

**[\*P24]** Quigg argues that the trial court's TRO sufficiently details the factual averments that necessitated conducting a hearing without notice. However, the TRO merely recites conclusory allegations from the complaint of the potential harms Quigg believed would occur without a TRO. Nowhere in **[\*\*11]** the complaint, TRO, or report of proceedings does Quigg set forth factual allegations explaining why providing notice to Saleem's attorneys, who were either less than a 10-minute walk away or available by phone, threatened to destroy QEI or its value. At most, Quigg's counsel provided vague opinions that "things started in our view to unravel" and there were "dramatic changes" that "materially and adversely" affected the company and "all of the sudden things were like instantaneously failing [*sic*] apart."



**[\*P25]** Saleem raises several other grounds he claims support a reversal of the TRO. However, we express no view on them. Our holding is limited to Quigg's failure to provide notice.

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**[\*P26]** [HN4](#)<sup>↑</sup> We note that the party seeking a TRO without notice cannot rely on subsequent proceedings to overcome a lack of specificity of factual allegations showing that immediate and irreparable injury will occur in the minutes or hours it takes to provide notice and conduct a hearing. Whether a TRO was properly granted without notice presents a binary question; the allegations of the affidavits or verified complaint either provide sufficient factual detail to make the statutory showing or they do not. If the TRO hearing **[\*\*12]** without notice is deficient, nothing presented thereafter can overcome that deficiency. Similarly, a trial court cannot rely on information learned after issuing the TRO without notice to excuse its error in granting that TRO.

**[\*P27]** We recognize that this is a harsh rule. [HN5](#)<sup>↑</sup> However, Illinois law makes clear that granting a TRO without notice is an extraordinary remedy and disfavored in all but the most extreme and urgent circumstances. [Parlor](#), 81 Ill. App. 3d at 669; [G&J Parking Co.](#), 168 Ill. App. 3d at 387; [Nagel](#), 272 Ill. App. 3d at 520. Given this context and the difficulty in obtaining timely appellate review, reviewing courts will not tolerate the reliance on evidence presented after a TRO has been issued to excuse a plaintiff's failure to make an adequate showing in the first instance.

### **[\*P28]** III. CONCLUSION

**[\*P29]** For the reasons stated, we reverse the trial court's judgment and remand for further proceedings.

**[\*P30]** Reversed and remanded.