

No. 2023-04971

THE UNAUTHORIZED PRACTICE
OF LAW COMMITTEE FOR THE
SUPREME COURT OF TEXAS

IN THE DISTRICT COURT OF

V.

HARRIS COUNTY, TEXAS

MARIA EUGENIA STANLEY a/k/a
MARIA STANLEY ROMERO and
ROBERTO LEMPIRA STANLEY

80th DISTRICT COURT

Defendant Roberto Lempira Stanley's Response to Plaintiff's Application for Temporary Injunction

1. Defendant ROBERTO LEMPIRA STANLEY hereby responds to Plaintiff THE UNAUTHORIZED PRACTICE OF LAW COMMITTEE FOR THE SUPREME COURT OF TEXAS' *First Amended Petition and Application for Injunction Relief*, therein requesting this Court to issue a temporary injunction against Defendant.

Purpose of a Temporary Injunction

2. The purpose of temporary injunctive relief is to halt wrongful acts that are threatened or that are in the currently ongoing and to maintain the status quo until final trial on the merits. *See Wiese v. Healthlake Cmty. Ass'n., Inc.*, 384 S.W.3d 395, 399 (Tex.App.—Houston [14th Dist.] 2012, no pet.). Therefore, temporary injunctive relief is not available to remedy past and discontinued wrongful acts that are not probable to reoccur. *Tex. Emp.'t Comm'n v. Martinez*, 545 S.W.2d 876, 877 (Tex.App.—El Paso 1976, no writ). Temporary injunctive relief is also not available to accomplish the object of the

suit and thus determine the rights of the parties or the merits of their claims without a trial. *Tex. Foundries, Inc. v. Int'l Moulders & Foundry Workers' Union*, 248 S.W.2d 460, 464 (Tex. 1952).

Elements to Prove for a Temporary Injunction to Issue

3. To obtain temporary injunctive relief, Plaintiff must establish that there is an underlying cause of action against Defendant, a probable right to the permanent injunction it seeks, and a probable, imminent, and irreparable injury in the interim. *See Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002). Plaintiff bears the burden on each of the three elements. *Intercontinental Terminals Co. v. Vopak N. Am., Inc.*, 354 S.W.3d 887, 891 (Tex.App.—Houston [1st Dist.] 2011, no pet.). Although Plaintiff has established a cause of action against Defendant, as Plaintiff is authorized to seek a permanent injunction against individuals or entities found to be engaged in the unauthorized practice of law, Plaintiff has failed to meet its burden on the remaining elements on which it bears the burden: a probable right to the permanent injunction it seeks and a probable, imminent, and irreparable injury in the interim.

No Probable Right to Recovery on Each Requested Relief

4. This Court has no authority to determine the merits of the underlying cause of action at the temporary-injunction hearing. *Hous. Belt & Terminal Ry. Co. v. Tex. & New Orleans R.R.Co.*, 289 S.W.2d 217, 219 (Tex. 1956); *see also Lawless v. Big State Land Co.*, 301 S.W.2d 958, 958 (Tex.App.—Fort Worth 1957, no writ) (“propriety of a

temporary injunction is not dependent upon the ultimate merits of the controversy”). To establish a probable right to recovery at the temporary injunction hearing, Plaintiff is required to produce evidence tending to prove Plaintiff’s right to each part of the equitable relief it seeks at trial. *See 31 Holdings I, LLC v. Argonaut Ins. Co.*, 640 S.W.3d 915, 923 (Tex.App.—Dallas 2022, no pet.); *Regal Entm’t Grp. V. iPic-Gold Class Entm’t, L.L.C.*, 507 S.W.3d 337, 345 (Tex.App.—Houston [1st Dist.] 2016, no pet.), *Camp v. Shannon*, 348 S.W.2d 517, 519 (Tex. 1961) (must produce some evidence that tends to show right to recovery). Plaintiff seeks various forms of injunctive relief for which it has not given evidence on its probable right of recovery at trial, yet Plaintiff has failed to prove the probable right to recovery for each of the requested forms of injunctive relief and thus the Court must not grant injunctive relief that Plaintiff has failed to present evidence on in the temporary injunction hearing.

**No Probable, Imminent, and Irreparable Injury
on Each Requested Relief**

5. The third element Plaintiff must prove is a probable, imminent, and irreparable injury between now and trial. Plaintiff is not seeking to keep the status quo but rather to prevent Defendant from taking certain actions until trial that would affect Defendant’s livelihood. To establish that temporary injunctive relief is needed, Plaintiff must introduce evidence of probably injury that is current as of the date of the hearing. *See Pub. Util Comm’n v. Water Servs., Inc.*, 709 S.W.2d 756, 788 (Tex.App.—Austin 1986,

writ dism'd w.o.j.). For probable injury to be prove, three elements must be established: (a) imminent harm, (2) irreparable injury, and (3) no adequate remedy at law. *Hartwell v. Lone Star, PCA*, 528 S.W.3d 750, 763 (Tex.App.—Texarkana 2017, pet. Dism'd); *Shor v. Pelican Oil & Gas Mgmt, LLC*, 405 S.W.3d 737, 750 (Tex.App.—Houston [1st Dist.] 2013, no pet.); *El Eacaso, Inc. v. Jireh Star, Inc.*, 356 S.W.3d 740, 743 (Tex.App.—Dallas 2011, no pet.).

No Imminent Harm on Each Requested Relief

6. To prove imminent harm, Plaintiff must establish that the alleged conduct for each relief requested is ongoing or imminent. *See Wiese*, 384 S.W.3d at 399. To establish that alleged wrongful conduct is imminent, the commission of the act must be more than speculative. *Hotze v. Hotze*, No. 01-18-00039-CV (Tex.App.—Houston [1st Dist.] July 17, 2018, no pet.) (mem.op.). Plaintiff must show that Defendant will engage in the each activity sought to be enjoined. *See Schmidt v. Richardson*, 420 S.W.3d 442, 447 (Tex.App.—Dallas 2014, no pet.); *see also State v. Morales*, 869 S.W.2d 941, 946 (Tex. 1994) (“injunction will not issue unless it is shown that respondent will engage in the activity enjoined”). **Generally, a defendant’s past and continued acts will not support a claim for injunctive relief.** *Tex. Emp’t Comm’n v. Martinez*, 545 S.W.2d 876, 877 (Tex.App.—El Paso 1976, no writ). When an act complained of has been fully accomplished, the element of imminent harm is not present. *Krenek v. S. Tex. Elec. Coop., Inc.*, 502 S.W.2d 605, 610 (Tex.App.—Corpus Christi 1973, no writ); *see, e.g., Zuniga v. U.S. Inv’rs, Inc.*, 453

S.W.2d 811, 811 (Tex. 1970). **Evidence of fear or apprehension of the possibility of injury is not sufficient to establish that injury is imminent.** *Hotze*, No. 01-18-0039-CV.

7. Plaintiff failed to show that the behavior complained of occurred near the date of the hearing. The reports that were admitted into evidence during the hearing were from years no closer than 2019. Whatever happened from 2004 to 2019 cannot be a valid basis for a temporary injunction in 2023.

8. The most damning evidence against Defendant is the use of the DBA “Immigration Law Firm,” but that does not cover all the requested relief set forth in the proposed Temporary Injunction. In fact, if the Court were to enjoin Defendant from using “Immigration Law Firm,” that would cover the only viable and legitimate evidence in this case.

Failure to Establish Irreparable Harm

9. In addition to the complained-of acts being imminent, they must also be irreparable. Plaintiff failed to meet its burden that any acts were imminent and irreparable. In fact, it was shown that Defendant is supervised by an attorney and acting under the direction and supervision of multiple attorneys, whether or Mr. Titus or other attorneys for which Defendant does freelance work. There is not a chance that Defendant’s acts would result in irreparable harm because such acts are overseen by attorneys. If there were to be any irreparable harm (which Defendant denies), such harm would be the result of the attorney’s actions, not Defendant’s actions.

Denial of Due Process

10. A party cannot be denied a reasonable opportunity to cross-examine adverse witnesses. *O.C.T.G.*, No. 14-13-00981-CV; see *Davidson v. Great Nat'l Life Ins. Co.*, 737 S.W.2d 312, 314 (Tex. 1987) (due process requires opportunity to confront and cross-examine adverse witnesses). In this hearing, Plaintiff not only presented hearsay upon hearsay evidence and testified on alleged documents not before the Court but also opined on “expert conclusions” drawn therefrom. Plaintiff clearly committed violations of the Texas Rules of Evidence and prejudiced Defendant’s defense in so doing.

11. As argued during the hearing, this Court would not allow a police officer to come into Court and testify about what alleged witnesses and documents said without Defendant having the right to know who those witnesses are and cross-examine them as well as view the documents upon which the officer testified. Yet, Plaintiff’s “investigator,” the Chair of the local UPL Subcommittee, was allowed to present hearsay testimony, testify on documents not in evidence, and testify about her “expert opinions” on evidence not before the Court and Defendant never having a chance to see such evidence.

12. Because of this due process violation, the Court should deny the requested temporary injunction. Because the Court has already considered evidence that violates Defendant’s due process, there is no way for the Court to unring the bell. Therefore,

Plaintiff should not be given another chance to hold a hearing on the requested temporary injunction in this Court.

Argument

13. The remedy Plaintiff seeks in this case is a permanent injunction. Plaintiff has used the temporary injunction process as an attempt to seek its overall aim in this lawsuit, a permanent injunction. Plaintiff failed to meet its burden on each requested relief in its application for a temporary injunction. Plaintiff violated Defendant's due process rights in the temporary injunction hearing.

14. The acts complained of are old thus not imminent. Given that the evidence is old, they are also not probable. Plaintiff merely conducted a fishing expedition in the hearing and had no evidence to meet its burden going into the hearing. The only current act that could potentially be considered is having a DBA of "Immigration Law Firm." Defendant will withdraw the DBA. Given that acts in evidence are old, they are also not probable or irreparable.

Prayer

15. For these reasons, Defendant ROBERTO LEMPIRA STANLEY asks the Court to deny Plaintiff's Application for Temporary Injunction and grant Defendant such further relief to which he may be entitled.

Respectfully submitted,

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I certify the foregoing document was served on Plaintiff's counsel via Texas E-Filing Manager on March 8, 2023, by /s/ Benjamin K. Sanchez.

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