

Mandamus Conditionally Granted and Opinion Filed October 31, 2013



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-13-01348-CV

**IN RE SOUTHERN FOODS GROUP, LLC AND
DEAN TRANSPORTATION, INC., Relators**

**Original Proceeding from the County Court at Law No. 3
Dallas County, Texas
Trial Court Cause No. CC-12-07015-C**

MEMORANDUM OPINION

Before Justices Bridges, Francis, and Lewis
Opinion by Justice Bridges

Relators filed this mandamus proceeding after the trial court granted real party in interest Greg Marquez a temporary restraining order preventing relators from terminating his employment. In order to obtain mandamus relief, relators must show both that the trial court has abused its discretion and that they have no adequate remedy by appeal. *In re Prudential Ins. Co.*, 148 S.W.3d 124, 135–36 (Tex. 2004) (orig. proceeding); *Walker v. Packer*, 827 S.W.2d 833, 839–40 (Tex. 1992) (orig. proceeding). Relators have met this burden, and we therefore conditionally grant the writ of mandamus.

A temporary restraining order must state why it was granted without notice if entered *ex parte*, state the date the order expires and set a hearing on a temporary injunction, set a bond, and define the injury to be suffered by the applicant and explain why that injury is irreparable. TEX. R. Civ. P. 680, 684. A party has no remedy by appeal when a TRO is granted that is not in

compliance with the rules, and a writ of mandamus is appropriate in such situations. *In re Office of Attorney Gen.*, 257 S.W.3d 695, 697–98 (Tex. 2008) (orig. proceeding).

The TRO states that Marquez’s injury is irreparable because the loss of his job would result in the loss of health insurance benefits for him and his family. Real party in interest argues that without the benefits, he will be unable to obtain medical treatment. However, the cost of medical treatment is compensable through monetary damages, and by definition not irreparable. *See, e.g., Washington D.C. Party Shuttle, LLC v. IGuide Tours*, 406 S.W.3d 723, 741 (Tex. App. —Houston [14th Dist.] 2013, pet. filed) (en banc) (“Irreparable injuries are those for which the injured party cannot be adequately compensated by damages or for which damages cannot be measured by any certain pecuniary standard.”). Because the identified injury is not irreparable, it was an abuse of discretion to grant the application for temporary restraining order

Accordingly, we conditionally grant relators’ petition for writ of mandamus. A writ will issue only in the event the trial court fails to vacate its September 25, 2013 order granting application for second temporary restraining order and its September 13, 2013 order granting application for temporary restraining order and to render an order denying the temporary restraining order.

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/David L. Bridges/
DAVID L. BRIDGES
JUSTICE