

CAUSE NO. 19-7298-367

ROBERT OBLON,	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
v.	§	DENTON COUNTY, TEXAS
	§	
JORDAN BROCK,	§	
	§	
Defendant.	§	367 <sup>th</sup> JUDICIAL DISTRICT

**NON-PARTIES' BRIEF IN SUPPORT OF RESPONSE TO MOTION TO SHOW CAUSE  
TO THE HONORABLE JUDGE OF SAID COURT:**

Non-parties Keith Halls, John “JT” Thatch, and Kip A. Allison (collectively “Respondents”) file their Brief in Support of Response to Motion to Show Cause (“Show Cause”) and pursuant to the Court’s request, show the Court as follows:

1. The *ex parte* Temporary Restraining Order (“TRO”) entered by the Court in this matter on August 22, 2019 did not comply with the requirements of Rule 680 of Texas Rule of Civil Procedure. Specifically, the TRO did not satisfy the requirement that it must specifically state why the order was granted without notice. As a result, the TRO was void *ab initio*. A void restraining order will not support an order of contempt for alleged noncompliance; thus, the Show Cause is moot as a matter of law. This issue was argued at the hearing on the Show Cause on October 17, 2019, and the Court requested supplemental briefing from the parties on this issue. Respondents submit this brief accordingly.

2. Plaintiff Robert Oblon is well aware of the void nature of the TRO and it is disingenuous that he now argues in favor of the enforcement of a void TRO. *See infra*, n. 1. Texas Rule of Civil Procedure 680 requires a trial court issuing a temporary restraining order on an *ex parte* basis to state why the order was issued without notice. *In re Office of Attorney Gen.*, 257 S.W.3d 695, 697 (Tex. 2008). An order which fails to fulfill this requirement is void. *Id.*; accord *In re Elevacity, LLC*, No. 05–18–00135–CV, 2018 WL 915031, at \*2 (Tex. App.—Dallas Feb. 16,

2018, no pet.) (stating that “the temporary restraining order is void because it does not include an explanation of why it was issued without notice to relators.”).<sup>1</sup>

3. The TRO clearly does not fulfill this mandatory requirement as the TRO fails to state why it was issued without notice. In fact, neither the words “without notice” nor “*ex parte*” appear anywhere in the TRO. Thus, as a matter of law, the TRO was void *ab initio*. A void temporary restraining order will not support an order of contempt for alleged noncompliance with the order. *Ex parte Leshner*, 651 S.W.2d 734, 736 (Tex. 1983) (holding that temporary restraining order was void on its face and “will not support an order of contempt.”); *accord In re Garza*, 126 S.W.3d 268, 271 (Tex. App.—San Antonio 2003, no pet.) (“A void order has no force or effect and confers no rights; it is a mere nullity. . . . a trial court that holds a party in contempt for violating a void order necessarily abuses its discretion.”). Further, mandamus is an appropriate remedy to challenge a void temporary restraining order because such orders are not appealable and a trial court abuses its discretion when it issues a void order. *In re Office of Attorney Gen.*, 257 S.W.3d at 695-97; *accord In re Elevacity, LLC*, 2018 WL 915031, at \*1; *accord In re Garza*, 126 S.W.3d at 270, 273.

4. The *In re Jackman* case cited by Plaintiff’s counsel at the Show Cause hearing is clearly distinguishable and inapposite. *In re Jackman* involved a habeas corpus proceeding related to the enforcement of a permanent injunction in a divorce case, not a civil matter involving issuance of a void temporary restraining order. *In re Jackman*, 663 S.W.2d 520 (Tex. App.—Dallas 1983, no writ). In fact, the only applicable portion of that case actually supports Respondents’ position, as it clearly states that “[a]n injunction which is not void must be obeyed .

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<sup>1</sup> In fact, Plaintiff herein, Robert Oblon, was a relator in the *In re Elevacity, LLC* case and made the same argument to the appellate court that the Respondents make herein, and Robert Oblon properly obtained a ruling from the Dallas Court of Appeals that the temporary restraining order in that case was void. Now, Robert Oblon apparently advances the exact opposite argument from the one he advanced in the *In re Elevacity, LLC* case.

. .”. *Id.* at 524 (underlined emphasis added; italics emphasis in original). Plaintiff’s position on this issue is thus unavailing and unsupported.

5. The TRO entered in this case is unquestionably void for failure to comply with the mandates of the rules regarding issuance of *ex parte* restraining orders, and no contempt proceedings can be predicated upon void orders. Thus, the Show Cause is moot as a matter of law.

WHEREFORE, PREMISES CONSIDERED, Respondents pray that Plaintiff’s Motion to Show Cause be DENIED in its entirety, that the Court enter an Order that the TRO in this matter was void *ab initio*, and that the Court grant Respondents such other and further relief, at law or in equity, to which Respondents may be justly entitled.

Respectfully submitted,

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ATTORNEYS FOR RESPONDENTS

## CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was served via e-mail, to all counsel of record on this 23<sup>rd</sup> day of October, 2019.

/s/ Scott R. Meyer

Scott R. Meyer