Rule 65. Injunctions and Restraining Orders

(a) PRELIMINARY INJUNCTION.

(1) *Notice*. The court may issue a preliminary injunction only on notice to the adverse party.

(2) *Consolidating the Hearing with the Trial on the Merits*. Before or after beginning the hearing on a motion for a preliminary injunction, the court may advance the trial on the merits and consolidate it with the hearing. Even when consolidation is not ordered, evidence that is received on the motion and that would be admissible at trial becomes part of the trial record and need not be repeated at trial. But the court must preserve any party's right to a jury trial.

(b) TEMPORARY RESTRAINING ORDER.

(1) *Issuing Without Notice*. The court may issue a temporary restraining order without written or oral notice to the adverse party or its attorney only if:

(A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and

(B) the court finds that the movant has made reasonable efforts under the circumstances to furnish to the adverse party or its attorney, at the earliest practicable time prior to the hearing on the motion for such order, actual notice of the hearing and copies of all pleadings and other papers filed in the action or to be presented to the court at the hearing.

(2) *Contents; Expiration*. Every temporary restraining order issued without notice must state the date and hour it was issued; describe the injury and state why it is irreparable; state why the order was issued without notice; and be promptly filed in the clerk's office and entered in the record. The order expires at the time after entry—not to exceed 14 days—that the court sets, unless before that time the court, for good cause, extends it for a like period or the adverse party consents to a longer extension. The reasons for an extension must be entered in the record.

(3) *Expediting the Preliminary-Injunction Hearing.* If the order is issued without notice, the motion for a preliminary injunction must be set for hearing at the earliest possible time, taking precedence overall other matters except hearings on older matters of the same character. At the hearing, the party who obtained the order must proceed with the motion; if the party does not, the court must dissolve the order.

(4) *Motion to Dissolve*. On 2 days' notice to the party who obtained the order without notice—or on shorter notice set by the court—the adverse party may appear and move to dissolve or modify the order. The court must then hear and decide the motion as promptly as justice requires.

(c) SECURITY. The court may issue a preliminary injunction or a temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained. The United States, the District of Columbia, and officers or agencies of either are not required to give security.

(d) CONTENTS AND SCOPE OF EVERY INJUNCTION AND RESTRAINING ORDER.

(1) *Contents*. Every order granting an injunction and every restraining order must:

(A) state the reasons why it issued;

(B) state its terms specifically; and

(C) describe in reasonable detail—and not by referring to the complaint or other document—the act or acts restrained or required.

(2) *Persons Bound*. The order binds only the following who receive actual notice of it by personal service or otherwise:

(A) the parties;

(B) the parties' officers, agents, servants, employees, and attorneys; and

(C) other persons who are in active concert or participation with anyone described in Rule 65(d)(2)(A) or (B).

(e) OTHER LAWS NOT MODIFIED. These rules do not modify any applicable statute relating to temporary restraining orders or preliminary injunctions in actions affecting employer and employee.

(f) [Omitted].

COMMENT TO 2017 AMENDMENTS

This rule is substantially similar to *Federal Rule of Civil Procedure 65*, as amended in 2007 and 2009, but maintains the following local distinctions: 1) in subsection (b)(1), the requirement for an attorney certification has been replaced with language requiring the court to find that the movant made reasonable efforts; 2) the District of Columbia has been added to the section exempting the government and its agents from posting security; 3) references to federal statutes have been omitted from section (e); and 4) section (f) of the federal rule has been omitted as inapplicable.

COMMENT

Identical to *Federal Rule of Civil Procedure 65* except for (1) revision of the 2nd prerequisite clause in section (b) so as to replace the attorney's written certificate with a Court finding and to require the applicant to make reasonable efforts to furnish to the adverse party's attorney not only notice of the hearing but also copies of any papers filed to date or to be presented to the Court at the hearing; (2) addition of the District of Columbia to the provision in section (c) exempting the government and its agents from the requirement of posting security in the course of obtaining any restraining order or preliminary injunction; and (3) deletion from section (e) thereof of inapplicable references to *28 U.S.C. §§ 2361* and 2384 and substitution therein of "applicable statute" for "statute of the United States [sic]".

The 1st change described above was prompted by experience in this jurisdiction with a substantial number of emergency applications for temporary restraining orders, particularly against the District of Columbia. In the case of any application for a temporary restraining order against the District of Columbia, an agency thereof, or an employee acting or purporting to act in his official capacity, the adverse party's attorney is, of course, the Corporation Counsel of the District of Columbia. Because it is most desirable to have the adverse party's attorney present, if possible, at the hearing on the motion for temporary restraining order, the revised 2nd prerequisite requires the applicant to make all reasonable efforts to notify the adverse party's attorney of the hearing and furnish him with appropriate papers; naturally, furnishing such notice and papers to the adverse party himself would be the next best step if the applicant does not

know who the adverse party's attorney is.

It should be noted, however, that the furnishing of pleadings and other papers called for in section (b) does not supplant the jurisdictional requirement of service of process on the defendant in accordance with Rule 4.