

**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF LIVINGSTON**

NICOLE M. INGRAM,
Plaintiff,

Case No. 22-31463-CB
Hon. Michael P. Hatty

v.

ANNETTE M. ARMOUR,
Defendant,

**OPINION AND ORDER DENYING EX-PARTE
MOTION FOR TEMPORARY RESTRAINING ORDER**

At a session of the 44th Circuit Court,
held in the City of Howell, Livingston County,
on the 3rd day of May, 2022

THIS MATTER comes before this Court on Plaintiff's Ex-Parte Motion for Temporary Restraining Order. Upon review of Plaintiff's Motion, Affidavit of Support, and Complaint, and for the reasons stated herein, this Court DENIES Plaintiff's Motion.

MCR 3.310(B)(1)(a) provides:

(1) A temporary restraining order may be granted without written or oral notice to the adverse party or the adverse party's attorney only if

(a) it clearly appears from specific facts shown by affidavit or by a verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant from the delay required to effect notice or from the risk that notice will itself precipitate adverse action before an order can be issued;

(b) the applicant's attorney certifies to the court in writing the efforts, if any, that have been made to give the notice and the reasons supporting the claim that notice should not be required; and

(c) a permanent record or memorandum is made of any nonwritten evidence, argument, or other representations made in support of the application.

(2) A temporary restraining order granted without notice must:

(a) be endorsed with the date and time of issuance;

(b) describe the injury and state why it is irreparable and why the order was granted without notice;

(c) except in domestic relations actions, set a date for hearing at the earliest possible time on the motion for a preliminary injunction or order to show cause why a preliminary injunction should not be issued.

An injunction is an extraordinary remedy which should be granted only when justice requires. *Fancy v Egrin*, 177 Mich App 714, 720; 442 NW2d 765 (1989). Four factors must be considered in determining whether to grant injunctive relief: (1) the likelihood that the party requesting the injunction will prevail on the merits; (2) the danger that the party seeking the injunction will suffer irreparable harm if the injunction is not issued; (3) the risk that the party seeking the injunction will be harmed more by absence of an injunction than the opposing party would be by granting the relief; (4) the harm to public interest if the injunction is issued. *Michigan State Employees Ass'n v Dept of Mental Health*, 421 Mich 152, 157–58; 365 NW2d 93 (1984).


Of these four factors, the most important is the likelihood that plaintiff will suffer irreparable harm. *Lash v City of Traverse City*, 479 Mich 180, 196; 735 NW2d 628 (2007). Demonstrating irreparable harm is an “indispensable requirement” to obtaining a preliminary injunction. *Michigan Coalition of State Employees Unions v Michigan Civil Serv Comm'n*, 465 Mich 212, 225-226; 634 NW2d 692 (2001). Irreparable harm requires the showing of a non-compensable injury for which there is no legal measure of damages. *Thermatool Corp v Borzyn*, 227 Mich App 366, 377; 575 NW2d 366 (1998). A breach of contract, by itself, does not establish that a party will suffer irreparable injury. *Id.* “Granting extraordinary equitable relief to remedy... economic injuries is unnecessary and inappropriate because they can be remedied by damages at law.” *Pontiac Fire Fighters Union Local 376 v City of Pontiac*, 482 Mich 1, 10; 753 NW2d 595 (2008). The “mere loss of profits, or relative deterioration of competitive position, do not in themselves suffice.” *Merrill Lynch, Pierce, Fenner & Smith, Inc v EF Hutton & Co, Inc*,

403 Fsupp 336, 343 (ED Mich, 1975) (internal citations omitted). See also *Thermatool Corp v Borzym*, 227 Mich App 366, 377; 575 NW2d 334 (1998). Refusal to grant a preliminary injunction does not render moot the subject matter of the complaint for an injunction. *Dunnebacke v Detroit, GH & M Ry Co*, 248 Mich 450; 227 NW 811 (1929). Similarly, a denial of a motion for a preliminary injunction is not res judicata precluding a final judgment for the plaintiff. *Hopkins v Crantz*, 334 Mich 300; 54 NW2d 671 (1952).

This Court finds that the allegations put forth by Plaintiff do not make an adequate showing that she would suffer “irreparable injury, loss, or damage... from the delay required to effect notice or from the risk that notice will itself precipitate adverse action before an order can be issued.” This is particularly due to the extraordinary nature of the instant request given the potential for damages that Plaintiff may suffer.

Accordingly, this Court DENIES Plaintiff’s Ex-Parte Motion for Temporary Restraining Order. However, Plaintiff may request a preliminary injunction pursuant to MCR 3.310(A)(3).

IT IS SO ORDERED.



Hon. Michael P. Hatty
Circuit Court Judge