

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO  
FILE MOTION FOR REHEARING AND  
DISPOSITION THEREOF IF FILED

CENTER STATE TRANSPORTATION,  
INC.,

Appellant,

v.

Case No. 5D20-1431

MOTOR TREND ORLANDO SERVICE,  
LLC,

Appellee.

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Opinion filed March 5, 2021

Nonfinal Appeal from the Circuit Court  
for Orange County,  
Lisa T. Munyon, Judge.

Scott E. Siverson, of Siverson Law Firm  
PLLC, Winter Garden, for Appellant.

Amber Stoner Nunnally, of Shutts &  
Bowen LLP, Tallahassee, and Brett R.  
Renton, of Shutts & Bowen LLP, Orlando,  
for Appellee.

EVANDER, C.J.,

Center State Transportation, Inc., a sublessee trucking company, appeals a nonfinal temporary injunction prohibiting it from: (1) utilizing the leased property as a repair shop or performing maintenance on vehicles; (2) utilizing the leased property to sell, store, improperly dispose of or handle petroleum or other pollutants; and (3) using

any portion of the property not within the “front unit parcel space” as stated in the sublease. The temporary injunction also required Center State “to immediately remediate any and all contamination or spillage of petroleum and/or other pollutants at its own cost.” We reverse the trial court’s order to the extent that it requires Center State to immediately perform remediation measures, but we otherwise affirm.<sup>1</sup>

Mandatory injunctions, which compel an affirmative act by the party enjoined, should rarely be granted before final hearing, or before the parties have a full opportunity to present their evidence. *Miami Bridge Co. v. Miami Bridge Ry. Co.*, 12 So. 2d 438, 443 (Fla. 1943); *see also Delta Gen. Corp. v. Priess*, 389 So. 2d 1083, 1083 (Fla. 3d DCA 1980) (“The law is well settled that a mandatory injunction may not be granted prior to a final hearing on the merits, except in those rare cases where the right to it is clear and free from reasonable doubt.”). Here, the two-hour temporary injunction hearing took place thirteen days after the filing of the verified complaint. It is clear from the hearing transcript that neither party had the full opportunity to present their evidence on the remediation issue.<sup>2</sup>

Furthermore, the court’s requirement that Center State both “immediately remediate any and all contamination or spillage of petroleum and/or other pollutants” is deficient in that it fails to “describe with reasonable detail the act or acts required to comply with the injunction.” *See Castillo Grand Residences Condo. Ass’n v. Stern*, 304 So. 3d

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<sup>1</sup> Our affirmance of the prohibitory portions of the temporary injunction is without prejudice to Center State, if it can do so in good faith, to seek an increase in the required bond amount.

<sup>2</sup> Because it was not raised on appeal, we do not address the issue of whether Appellee has an adequate remedy at law for the alleged damage to the leased property caused by Center State.

23, 27 (Fla. 4th DCA 2020). Indeed, it is unclear from the trial court's order whether Center State would be required to remediate contamination that may have existed prior to the commencement of its sublease, or contamination that may have been caused by others.

On remand, the trial court shall strike that portion of the temporary injunction that requires Center State to undertake the above described remediation measures.

AFFIRMED, in part; REVERSED, in part; and REMANDED with instructions.

EDWARDS and HARRIS, JJ., concur.