



In The

# **Eleventh Court of Appeals**

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No. 11-13-00272-CV

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**IN RE SPARTAN CONSULTING & SAFETY, LLC  
AND KATRINA MENDENHALL**

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**Original Mandamus Proceeding**

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## **MEMORANDUM OPINION**

This mandamus proceeding concerns the trial court's entry of an ex parte restraining order. The real party in interest, Americrane & Equipment, Inc., sought and obtained a temporary restraining order from the trial court restraining relators, Spartan Consulting & Safety, LLC and Katrina Mendenhall, from engaging in various aspects of equipment training pursuant to the terms of an alleged covenant not to compete. Relators have filed this mandamus proceeding seeking to have the temporary restraining order declared void on various grounds. We conditionally grant the petition for writ of mandamus.

The Texas Rules of Civil Procedure set forth specific requirements for the granting of injunctive relief, including ex parte restraining orders. "Texas Rules of

Civil Procedure 680 and 684 require a trial court issuing a temporary restraining order to: (1) state why the order was granted without notice if it is granted *ex parte*; (2) state the reasons for the issuance of the order by defining the injury and describing why it is irreparable; (3) state the date the order expires and set a hearing on a temporary injunction; and (4) set a bond.” *In re Office of Attorney Gen.*, 257 S.W.3d 695, 697 (Tex. 2008) (orig. proceeding) (emphasis added) (internal citations omitted). “Orders that fail to fulfill these requirements are void.” *Id.* The restraining order entered by the trial court does not meet all of these requirements because it does not expressly state the date that the order expires. Accordingly, the order as written is void under the requirements set out in the applicable rules of civil procedure. In reaching this holding, we express no opinion regarding any other alleged deficiency with the restraining order asserted by relators.

We conditionally grant the writ of mandamus. The trial court is directed to vacate its “Temporary Restraining Order and Order Setting Hearing for Temporary Injunction.” The writ of mandamus will issue only if the trial court fails to act by October 24, 2013. This holding is limited solely to the validity of the “Temporary Restraining Order and Order Setting Hearing for Temporary Injunction,” and it has no effect on any other aspect of the underlying proceeding.

MIKE WILLSON  
JUSTICE

October 3, 2013

Panel consists of: Wright, C.J.,  
McCall, J., and Willson, J.