

REVERSE, DISSOLVE, and REMAND; Opinion Filed March 29, 2016.



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-16-00318-CV

**MEDI-LYNX MONITORING, INC., MEDI-LYNX CARDIAC MONITORING, LLC
AND ANDREW J. BOGDAN, Appellants**

V.

**AMI MONITORING, INC., SPECTOCOR, LLC, JOSEPH H. BOGDAN,
MEDICALGORITHMICS US HOLDING CORPORATION, MEDICALGORITHMICS
S.A., AND MAREK DZIUBINSKI, Appellees**

**On Appeal from the 199th Judicial District Court
Collin County, Texas
Trial Court Cause No. 199-03634-2015**

MEMORANDUM OPINION

Before Justices Francis, Fillmore, and Stoddart
Opinion by Justice Fillmore

Appellants appeal the trial court's March 14, 2016 order granting a temporary injunction. Appellants move to dissolve the temporary injunction contending the trial court erred by granting it because (1) the temporary injunction order failed to set the case for trial on the merits; (2) the trial court failed to hold a hearing before granting the temporary injunction; and (3) the trial court granted the temporary injunction without setting a proper amount of bond. We reverse the order of the trial court and dissolve the temporary injunction.

The ultimate issue before this Court is whether the trial court abused its discretion in entering the temporary injunction order. *Institutional Secs. Corp. v. Hood*, 390 S.W.3d 680, 683 (Tex. App.—Dallas 2012, no pet.) (decision to grant temporary injunction lies within sound

discretion of trial court; exercise of that discretion can be reversed on appeal only if there is clear abuse of discretion). Rule 683 of the rules of civil procedure requires that an order granting a temporary injunction set the cause for trial on the merits with respect to the ultimate relief sought. *See* TEX. R. CIV. P. 683. This procedural requirement is mandatory, and an order granting a temporary injunction that is noncompliant is subject to being declared void and dissolved. *Qwest Comms. v. AT&T Corp.*, 24 S.W.3d 334, 337 (Tex. 2000) (requirement of rule 683 that temporary injunction order set the cause for trial on the merits is mandatory); *InterFirst Bank San Felipe, N.A. v. Paz Constr. Co.*, 715 S.W.2d 640, 641 (Tex. 1986) (where temporary injunction order failed to set case for trial on merits, supreme court declared the temporary injunction was void and dissolved it). Here, it is undisputed that the trial court's temporary injunction order failed to set the cause for trial on the merits. Appellants concede that the trial court's temporary injunction order is not defensible on appeal for that reason. Because the trial court's temporary injunction order does not comply with rule 683, we conclude that the trial court abused its discretion in granting the temporary injunction.

We grant appellants' motion to dissolve the temporary injunction. We reverse the March 14, 2016 order of the trial court granting the temporary injunction and remand the case to the trial court for further proceedings.

/Robert M. Fillmore/

ROBERT M. FILLMORE
JUSTICE

160318F.P05



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

MEDI-LYNX MONITORING, INC.,
MEDI-LYNX CARDIAC MONITORING,
LLC AND ANDREW J. BOGDAN,
Appellants

On Appeal from the 199th Judicial District
Court, Collin County, Texas
Trial Court Cause No. 199-03634-2015.
Opinion delivered by Justice Fillmore.
Justices Francis and Stoddart participating.

No. 05-16-00318-CV V.

AMI MONITORING, INC., SPECTOCOR,
LLC, JOSEPH H. BOGDAN,
MEDICALGORITHMICS US HOLDING
CORPORATION,
MEDICALGORITHMICS S.A., AND
MAREK DZIUBINSKI, Appellees

In accordance with this Court's opinion of this date, the March 14, 2016 temporary injunction order of the trial court is **REVERSED**, the temporary injunction is **DISSOLVED**, and this cause is **REMANDED** to the trial court for further proceedings.

It is **ORDERED** that appellants MEDI-LYNX MONITORING, INC., MEDI-LYNX CARDIAC MONITORING, LLC AND ANDREW J. BOGDAN recover their costs of this appeal from appellees AMI MONITORING, INC., SPECTOCOR, LLC, JOSEPH H. BOGDAN, MEDICALGORITHMICS US HOLDING CORPORATION, MEDICALGORITHMICS S.A., AND MAREK DZIUBINSKI.

Judgment entered this 29th day of March, 2016.