

Reversed and Rendered and Memorandum Opinion filed March 10, 2011.



In The

**Fourteenth Court of Appeals**

---

NO. 14-10-00722-CV

---

**APRIL MCCURRY, Appellant**

**V.**

**MARK AND VIRGINIA SMITH, Appellees**

---

**On Appeal from the 155th District Court  
Austin County, Texas  
Trial Court Cause No. 2010V-0040**

---

**M E M O R A N D U M    O P I N I O N**

Appellant April McCurry appeals the grant of a temporary injunction enjoining her from prohibiting Mark and Virginia Smith from traveling across her property to access their property during times of wet weather. The order permits the Smiths the right to travel across McCurry's property east of a fence constructed by McCurry, and is limited to "those times during which, because of wet weather," the Smiths are prevented from having reasonable access to their property.

The order granting the temporary injunction does not set the cause for trial on the

merits with respect to the ultimate relief sought as required by Texas Rule of Civil Procedure 683. In the order the trial court recites, “It is further ordered that a final trial on the merits in this case shall be set.” The order, however, fails to set a trial date. Appellant has raised this issue in her brief; appellees have not responded.

The Texas Rules of Civil Procedure require that an order granting a temporary injunction set the cause for trial on the merits and fix the amount of security to be given by the applicant. *See* Tex. R. Civ. P. 683, 684. These procedural requirements are mandatory, and an order granting a temporary injunction that does not meet them is subject to being declared void and dissolved. *Qwest Commc’ns Corp. v. AT & T Corp.*, 24 S.W.3d 334, 337 (Tex. 2000) (citing *InterFirst Bank San Felipe, N.A. v. Paz Constr. Co.*, 715 S.W.2d 640, 641 (Tex. 1986)). The order in this case does not set a trial date or a security bond.

We reverse the judgment of the trial court, declare the temporary injunction void, and order it dissolved.

PER CURIAM

Panel consists of Justices Brown, Boyce, and Jamison.