

**Reversed and Remanded and Majority and Concurring Opinions filed
January 12, 2016.**



In The

Fourteenth Court of Appeals

NO. 14-15-00139-CV

HOIST LIFTRUCK MFG., INC., Appellant

V.

**CARRUTH-DOGGETT, INC. D/B/A TOYOTA LIFT OF HOUSTON AND
TOYOTA LIFT OF SOUTH TEXAS, Appellee**

**On Appeal from the 270th District Court
Harris County, Texas
Trial Court Cause No. 2014-59264**

MAJORITY OPINION

In this accelerated interlocutory appeal, appellant Hoist Liftruck Mfg., Inc. appeals the trial court's order granting the temporary injunction requested by appellee Carruth-Doggett, Inc., d/b/a Toyota Lift of Houston and Toyota Lift of

South Houston, Texas (Toyota Lift).¹ Hoist argues, among other things, that the temporary injunction must be dissolved because the order does not state the reasons it was granted as required by Texas Rule of Civil Procedure 683. We conclude that because the temporary injunction order does not state the reasons for its issuance, it violates Rule 683. We therefore sustain Hoist's fifth issue, hold that the temporary injunction order is void, dissolve it, and remand the case to the trial court. We further direct the clerk of this Court to issue the mandate immediately.

BACKGROUND

Toyota Lift is a material-handling equipment dealer in Houston, Texas. It sells, services, and rents multiple brands of material-handling equipment. Toyota Lift entered into a dealer agreement with Hoist in 2006. Pursuant to that agreement, Toyota Lift was authorized to sell and service Hoist products in a specified territory.

A dispute eventually erupted between Hoist and Toyota Lift over each party's compliance with the terms of the dealer agreement. Hoist sent Toyota Lift notice that it believed Toyota Lift had breached the dealer agreement and that it intended to terminate the agreement if Toyota Lift did not cure the alleged breaches within sixty days. Toyota Lift responded by filing suit seeking actual damages as well as injunctive relief.

Following a brief hearing, the trial court granted Toyota Lift's request for a temporary injunction. The order provides:

[T]he Court considered [Toyota Lift's] Second Amended Petition, Application for Temporary Restraining Order and Temporary and Permanent Injunction. Having read the verified petition and considered the arguments of counsel, the Court **GRANTS** [Toyota

¹ See Tex. Civ. Prac. & Rem. Code Ann. § 51.014(a)(4) (West 2015).

Lift's] Application for Temporary Injunction.

It is **ORDERED** that [Hoist], Specialized Liftruck Services, LLC aka Hoist Lift of Texas aka Hoistlift of Texas and James Knight, are temporarily enjoined from terminating the Dealer Agreement in the following respects:

- (1) [Toyota Lift] is permitted to perform warranty service;
- (2) [Toyota Lift] is permitted to purchase parts at dealer pricing;
- (3) [Toyota Lift] is permitted to sell to quoted customers and to quote new business.

It is further **ORDERED** that [Toyota Lift] post a bond in the amount of \$5,000.00.

It is further order [sic] this matter is set for trial

The Clerk shall enter this Temporary Injunction and provide a copy to all parties.

This interlocutory appeal followed.

ANALYSIS

Hoist raises five issues in this interlocutory appeal. We need only address the fifth issue because it is dispositive. In that issue, Hoist contends the trial court's temporary injunction must be dissolved because the order does not state the reasons for its issuance as required by Rule 683 of the Texas Rules of Civil Procedure. We agree.

The purpose of a temporary injunction is to preserve the status quo of the litigation's subject matter pending trial on the merits. *Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002) (op. on reh'g). To obtain a temporary injunction, an applicant is not required to establish that it will prevail upon a final trial on the merits, but must plead and prove that it (1) has a cause of action against the opposing party; (2) has a probable right on final trial to the relief sought; and (3) faces probable, imminent, and irreparable injury in the interim. *Sharma v. Vinmar*

Int'l, Ltd., 231 S.W.3d 405, 419 (Tex. App.—Houston [14th Dist.] 2007, no pet.) (citing *Butnaru*, 84 S.W.3d at 204). Litigants generally are not entitled to temporary injunctive relief as a matter of right. *Walling v. Metcalfe*, 863 S.W.2d 56, 57 (Tex. 1993) (per curiam). The decision to grant or deny such relief instead is committed to the trial court’s discretion, and we will uphold its ruling absent a clear abuse of discretion. *Id.* at 58.

Although the decision whether to grant or deny a request for a temporary injunction is committed to the sound discretion of the trial court, once the court decides to grant injunctive relief, the order itself must contain the reasons for its issuance. *Helix Energy Sol. Grp., Inc. v. Howard*, 452 S.W.3d 40, 44 (Tex. App.—Houston [14th Dist.] 2014, no pet.) (citing Tex. R. Civ. P. 683). Rule 683 requires that the temporary injunction order specifically set forth the reasons the trial court believes irreparable injury will result absent the granting of an injunction preserving the status quo pending a trial on the merits. *El Tacaso, Inc. v. Jireh Star, Inc.*, 356 S.W.3d 740, 748 (Tex. App.—Dallas 2011, no pet.). This requirement is mandatory. *InterFirst Bank San Felipe, N.A. v. Paz Constr. Co.*, 715 S.W.2d 640, 641 (Tex. 1986). An order that does not comply with Rule 683’s requirements “is subject to being declared void and dissolved.” *Helix Energy Sol. Grp., Inc.*, 452 S.W.3d at 44 (quoting *InterFirst Bank San Felipe, N.A.*, 715 S.W.2d at 641); *Higginbotham v. Clues*, 730 S.W.2d 129, 129 (Tex. App.—Houston [14th Dist.] 1987, no writ).

As shown above, the trial court’s temporary injunction order does not state a reason for its issuance and does not address why irreparable injury will result absent an injunction. A trial court abuses its discretion if it issues a temporary injunction order that does not comply with Rule 683. *Helix Energy Sol. Grp., Inc.*, 452 S.W.3d at 44–45. Because the trial court’s order does not comply with the

mandatory requirements of Rule 683, we declare the temporary injunction order void, dissolve the injunction, and remand the case to the trial court. *Id.* at 45.

CONCLUSION

We declare the trial court's temporary injunction order void, dissolve the injunction, and remand this case to the trial court for proceedings consistent with this opinion. We further instruct the clerk of this Court to issue the mandate immediately. *Id.*

/s/ J. Brett Busby
Justice

Panel consists of Chief Justice Frost and Justices Jamison and Busby (Frost, C.J., concurring).