

## **Question**

The litigant requested an emergency Temporary Restraining Order (TRO) and appeared for a scheduled hearing before the associate judge. The associate judge un-set the hearing and refused to hear the TRO, stating that the opposing attorney would be filing a consolidation motion later. The litigant left the courthouse without any order being entered or any opportunity to present his emergency request. Under both the United States Constitution (Fourteenth Amendment) and the Texas Constitution (Art. I, § 19), due process requires that a party be given notice and a meaningful opportunity to be heard before being deprived of a substantial right. Texas Rule of Civil Procedure 680 provides that a TRO may be granted without notice to the adverse party only if it clearly appears from specific facts shown by affidavit or verified complaint that immediate and irreparable injury will result before notice can be served and a hearing had. By refusing to hear the emergency TRO and un-setting the hearing solely because of a potential future motion by the opposing party, the associate judge deprived the litigant of his right to a meaningful opportunity to be heard on his emergency request, thus violating due process.

## **Answer (Texas)**

### **Short response**

The associate judge's refusal to hear the litigant's emergency Temporary Restraining Order (TRO) and un-setting of the scheduled hearing, based solely on a potential future motion by the opposing party, deprived the litigant of the meaningful opportunity to be heard required by both the United States and Texas Constitutions, as well as by Texas procedural law. This conduct constitutes a violation of due process and an abuse of discretion under controlling Texas authority.

### **Summary**

Both the Fourteenth Amendment to the United States Constitution and Article I, Section 19 of the Texas Constitution guarantee that no person may be deprived of substantial rights without due process of law, which includes notice and a meaningful opportunity to be heard. Texas law, including Rule 680 of the Texas Rules of Civil Procedure and relevant case law, further mandates that courts must promptly consider and rule on properly filed emergency requests such as TROs, and that refusal to do so—especially for reasons unrelated to the merits or urgency of the request—violates both procedural and constitutional due process.

In this scenario, the associate judge's decision to un-set the hearing and refuse to consider the emergency TRO, based solely on the prospect of a future consolidation motion by the opposing party, denied the litigant the required opportunity to present his case for emergency relief. Texas

appellate courts have repeatedly held that such refusals are an abuse of discretion, remediable by mandamus, and that due process is not satisfied by procedural maneuvers that prevent a party from being heard on urgent matters. The judge's actions here are inconsistent with both the letter and spirit of Texas law and constitutional due process.

## **Background and Relevant Law**

### **Constitutional Guarantees**

#### **United States Constitution, Fourteenth Amendment**

The Fourteenth Amendment prohibits states from depriving any person of life, liberty, or property without due process of law. Due process, as interpreted by both federal and Texas courts, requires that a party be given notice and a meaningful opportunity to be heard before being deprived of a substantial right. The Texas Supreme Court has expressly adopted this standard, emphasizing that the opportunity to be heard must be both timely and meaningful, particularly where urgent or substantial rights are at stake, such as in emergency injunctive proceedings ([Mayhew v. Town of Sunnyvale, 964 S.W.2d 922, 928 \(Tex. 1998\)](#); [University of Texas Medical School at Houston v. Than, 874 S.W.2d 839, 842 \(Tex. App. 1994\)](#)). Although the validity of Mayhew has been questioned in later cases, its articulation of the basic due process requirement remains widely cited and has not been overruled on this point.

#### **Texas Constitution, Article I, Section 19**

The Texas Constitution's due course of law provision mirrors the federal due process guarantee, requiring that no citizen be deprived of life, liberty, property, privileges, or immunities except by the law of the land (Tex. Const. art. I, § 19). Texas courts interpret this as requiring fair procedures, including a meaningful opportunity to be heard before deprivation of substantial rights.

### **Statutory and Procedural Framework**

#### **Texas Rule of Civil Procedure 680**

Rule 680 governs the issuance of Temporary Restraining Orders in Texas civil courts. It provides that a TRO may not be granted without notice to the adverse party unless specific facts, shown by affidavit or verified complaint, demonstrate that immediate and irreparable injury will occur before notice can be served and a hearing held. When a TRO is granted without notice, the application for a temporary injunction must be set for hearing at the earliest possible date and take precedence over other matters, and the court must hear and determine any motion to dissolve or modify the TRO as expeditiously as justice requires (Rule 680, Tex. R. Civ. P.). This rule reflects a strong policy favoring prompt judicial consideration of emergency relief and a meaningful opportunity for all parties to be heard.

#### **Texas Family Code Section 105.001**

In the context of family law, Section 105.001 of the Texas Family Code authorizes temporary restraining orders and temporary injunctions and

underscores the importance of prompt hearings on such emergency relief. The statute generally requires that orders be rendered only after notice and a hearing, and limits the court's ability to postpone initial hearings, reflecting a legislative intent to prevent undue delay in access to emergency relief ([Tex. Fam. Code § 105.001](#)).

## Case Law

Texas appellate courts have consistently held that trial courts have a ministerial duty to consider and rule on properly filed and presented motions, especially those seeking emergency relief. Refusal to do so is an abuse of discretion and may be remedied by mandamus.

- In [In re Diana, 13-24-00287-CV \(Tex. App. Jun 28, 2024\)](#), the court held that a trial court's refusal to set a hearing or rule on a properly filed motion—regardless of pending appeals or other procedural developments—constitutes an abuse of discretion. The court emphasized that litigants are entitled to a hearing on urgent matters and that refusal to provide one deprives them of a meaningful opportunity to be heard.
- [In re Dupuy](#) (Tex. App. Aug. 31, 2023) reaffirmed that trial courts must rule on properly filed motions within a reasonable time, and that this is a ministerial, not discretionary, duty. Mandamus may issue to compel the court to act when it fails or refuses to do so.
- [In re Raines, No. 10-19-00376-CR \(Tex. App. Oct 30, 2019\)](#) and [In re Keeter, No. 10-19-00277-CR \(Tex. App. Aug 28, 2019\)](#) both held that when a litigant brings a properly filed request for relief to the court's attention, the court must consider and rule on it within a reasonable time. Refusal to do so, especially in the context of emergency relief, is a failure to perform a ministerial duty.
- [In re Blakeney, 254 S.W.3d 659 \(Tex. App. 2008\)](#) and [In re Christensen, 39 S.W.3d 250 \(Tex. App. 2000\)](#) further confirm that courts are required to consider and rule on pending motions, and that due process mandates an opportunity to be heard. Mandamus is available to compel action when a court refuses to hold a hearing or render a decision.
- [Chiles v. Schuble, 788 S.W.2d 205 \(Tex. App. 1990\)](#) found that a trial judge's refusal to entertain a hearing on a motion for emergency relief was an abuse of discretion, and the appellate court ordered the judge to hold a hearing and exercise discretion.
- [In re V.K., 607 S.W.3d 471 \(Tex. App. 2020\)](#) and [In re Glenny 03-25-00412-CV \(Tex. App. Jun 24, 2025\)](#) both held that when a statute requires a prompt, live hearing on urgent relief, a court's refusal to conduct such a hearing violates both statutory and constitutional due process. Administrative or scheduling considerations do not justify denial of a hearing.

- [T.L. v. Cook Children's Med. Ctr.](#), 607 S.W.3d 9 (Tex. App. 2020) and [Buchanan v. Androderm X, LLC](#), 01-24-00762-CV (Tex. App. Nov 25, 2025) both emphasize that due process requires not just notice, but a meaningful opportunity to be heard, including the ability to present and rebut evidence, especially when substantial rights are at stake.
- [In re Cnty. of Hidalgo](#), 655 S.W.3d 44 (Tex. App. 2022) and [In re Abbott](#), 628 S.W.3d 288 (Tex. 2021) reinforce that the procedural requirements for TROs are mandatory and designed to ensure prompt, meaningful judicial consideration of emergency relief.

## **Analysis**

### **The Right to a Meaningful Opportunity to Be Heard**

The core principle underlying both federal and Texas due process is that a party must be given a meaningful opportunity to be heard before being deprived of a substantial right. This is not a mere formality; the opportunity must be real, timely, and effective, particularly in the context of emergency relief where delay can itself cause irreparable harm ([University of Texas Medical School at Houston v. Than](#), 874 S.W.2d 839 (Tex. App. 1994); [Mayhew v. Town of Sunnyvale](#), 964 S.W.2d 922 (Tex. 1998)).

Texas courts have repeatedly held that when a litigant properly files and presents a request for emergency relief, such as a TRO, the court has a ministerial duty to consider and rule on the request within a reasonable time ([In re Diana](#), 13-24-00287-CV (Tex. App. Jun 28, 2024); [In re Dupuy](#) (Tex. App. Aug. 31, 2023); [In re Raines](#), No. 10-19-00376-CR (Tex. App. Oct 30, 2019)). Refusal to do so, especially by un-setting a scheduled hearing and declining to consider the request for reasons unrelated to the merits or urgency of the application, constitutes a denial of due process and an abuse of discretion.

### **Application to the Scenario**

In the present scenario, the litigant appeared for a scheduled hearing on his emergency TRO, but the associate judge un-set the hearing and refused to consider the request, citing only the possibility that the opposing party would file a consolidation motion at some future time. No order was entered, and the litigant was given no opportunity to present his emergency request.

This conduct is directly contrary to the requirements of Rule 680, which mandates that applications for emergency relief be set for hearing at the earliest possible date and take precedence over other matters. The rule's structure reflects a policy of prompt, prioritized judicial attention to emergency requests, and does not permit indefinite postponement or refusal to hear such requests based on speculative future procedural developments (Rule 680, Tex. R. Civ. P.; [In re Cnty. of Hidalgo](#), 655 S.W.3d 44 (Tex. App. 2022)).

The judge’s refusal to hear the TRO also violates the ministerial duty recognized in numerous Texas appellate decisions, which hold that courts must consider and rule on properly filed and presented motions, especially those seeking urgent relief ([In re Diana, 13-24-00287-CV \(Tex. App. Jun 28, 2024\)](#); [In re Dupuy](#) (Tex. App. Aug. 31, 2023); [In re Blakeney, 254 S.W.3d 659 \(Tex. App. 2008\)](#)). The refusal to act here is not justified by any statutory or procedural rule, and is not excused by the mere possibility of a future motion by the opposing party.

Moreover, the refusal to hear the TRO deprived the litigant of the meaningful opportunity to be heard required by both the United States and Texas Constitutions. As the courts have made clear, due process is not satisfied by procedural maneuvers that prevent a party from being heard on urgent matters ([T.L. v. Cook Children's Med. Ctr., 607 S.W.3d 9 \(Tex. App. 2020\)](#); [Buchanan v. Androderm X, LLC, 01-24-00762-CV \(Tex. App. Nov 25, 2025\)](#)). The opportunity to be heard must be real and effective, not illusory or subject to indefinite postponement.

## **Mandamus and Remedies**

Texas appellate courts have consistently held that when a trial court refuses to consider and rule on a properly filed and presented motion for emergency relief, mandamus is the appropriate remedy ([In re Diana, 13-24-00287-CV \(Tex. App. Jun 28, 2024\)](#); [In re Dupuy](#) (Tex. App. Aug. 31, 2023); [In re Blakeney, 254 S.W.3d 659 \(Tex. App. 2008\)](#); [Chiles v. Schuble, 788 S.W.2d 205 \(Tex. App. 1990\)](#)). The courts have repeatedly ordered trial judges to hold hearings and exercise discretion on such motions, and have found that refusal to do so is an abuse of discretion.

## **The Role of Anticipated Future Filings**

The associate judge’s stated reason for refusing to hear the TRO—the anticipated filing of a consolidation motion by the opposing party—does not justify the refusal to provide a hearing. Texas law does not permit a court to deny a party’s right to be heard on an emergency request based on speculative future procedural developments. The duty to consider and rule on properly filed motions is not suspended or excused by the possibility of future filings ([In re Diana, 13-24-00287-CV \(Tex. App. Jun 28, 2024\)](#); [In re Dupuy](#) (Tex. App. Aug. 31, 2023)). The proper course, if consolidation is later granted, is to address the emergency request in the consolidated proceeding, but not to deny the party a hearing in the interim.

## **Family Law Context**

Although the scenario does not specify whether the underlying case is a family law matter, the principles discussed above apply with equal force in that context. Section 105.001 of the Texas Family Code underscores the importance of prompt hearings on emergency relief in family law cases and limits the court’s ability to postpone such hearings ([Tex. Fam. Code § 105.001](#)). The courts have held that refusal to hold a required hearing on emergency relief in family law cases is an abuse of discretion and violates

due process ([In re V.K., 607 S.W.3d 471 \(Tex. App. 2020\)](#); [In re Glenny, 03-25-00412-CV \(Tex. App. Jun 24, 2025\)](#)).

## Exceptions and Caveats

There may be rare circumstances where a court is justified in postponing or refusing to hear a motion for emergency relief, such as when the motion is not properly filed, is moot, or the court lacks jurisdiction. However, none of these exceptions apply where, as here, the litigant appeared for a scheduled hearing on a properly filed emergency TRO and the only reason for refusal was the possibility of a future motion by the opposing party.

It should also be noted that while [Mayhew v. Town of Sunnyvale, 964 S.W.2d 922 \(Tex. 1998\)](#) has been questioned in later cases, its articulation of the basic due process requirement—notice and a meaningful opportunity to be heard—remains good law and is consistent with both federal and Texas constitutional jurisprudence.

## Conclusion

The associate judge's refusal to hear the litigant's emergency TRO and unsetting of the scheduled hearing, based solely on the prospect of a future consolidation motion, violated the litigant's right to a meaningful opportunity to be heard as required by both the United States and Texas Constitutions and by Texas procedural law. Texas courts have repeatedly held that trial courts have a ministerial duty to consider and rule on properly filed emergency motions, and that refusal to do so is an abuse of discretion and a denial of due process. The judge's actions in this scenario are inconsistent with the requirements of Rule 680, the Texas Family Code, and controlling Texas appellate authority, and would support mandamus or other extraordinary relief to compel the court to hold a hearing and exercise discretion on the emergency request.

## Legal Authorities

[Mayhew v. Town of Sunnyvale, 964 S.W.2d 922 \(Tex. 1998\)](#)

### Texas Supreme Court

#### Extract

If an individual is deprived of a property right, the government must afford an appropriate and meaningful opportunity to be heard to comport with procedural due process. *Cleveland Bd. of Education v. Loudermill*, 470 U.S. 532, 542, 105 S.Ct. 1487, 1493, 84 L.Ed.2d 494 (1985); *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 428, 102 S.Ct. 1148, 1153-54, 71 L.Ed.2d 265 (1982). Accordingly, a plaintiff alleging a procedural due process takings claim must establish that he was deprived of notice and an opportunity to be heard with respect to a decision affecting his property rights.

## **Summary**

The passage articulates the core due process requirement—notice and a meaningful opportunity to be heard—citing U.S. Supreme Court authority, and the Texas Supreme Court adopts and applies that standard. This supports arguing that refusing to hear a duly set emergency TRO, thereby denying an opportunity to be heard on imminent harm, violates procedural due process.

[University of Texas Medical School at Houston v. Than, 874 S.W.2d 839 \(Tex. App. 1994\)](#)

### **Texas Court of Appeals**

#### **Extract**

Due process requires an opportunity to be heard at a meaningful time and in a meaningful manner. *Armstrong v. Manzo*, 380 U.S. 545, 552, 85 S.Ct. 1187, 1191, 14 L.Ed.2d 62 (1965)." ... "The School has already given Than an opportunity to be heard. Through no fault of Than's, the opportunity provided by the School violated due process. For the reasons set out above, we believe that another hearing this late would be constitutionally futile.

## **Summary**

The quoted language articulates the core due process requirement—an opportunity to be heard at a meaningful time and in a meaningful manner. The case applies that standard to find that a procedurally deficient hearing violated due process and that a delayed cure could be constitutionally inadequate. This supports arguing that un-setting and refusing to hear an emergency TRO—where timing is crucial—deprived the litigant of a meaningful opportunity to be heard, violating federal and Texas due process guarantees.

[T.L. v. Cook Children's Med. Ctr., 607 S.W.3d 9 \(Tex. App. 2020\)](#)

### **Texas Court of Appeals**

#### **Extract**

The Fourteenth Amendment to the United States Constitution prohibits the State of Texas from 'depriv[ing] any person of life[ or] liberty ... without due process of law.' ... VII. By Demonstrating a Lack of Reasonable Notice and a Meaningful Opportunity to Be Heard, Mother Has Shown a Probable Right to Relief on Her Procedural-Due-Process Claim ... 1. T.L. and Mother did not receive reasonable notice or a meaningful opportunity to be heard ... More particularly, the constitutional adequacy of both notice and the opportunity to be heard depends upon the nature of the case. ... For example, when the

action or decision turns on the evaluation of evidence, reasonable notice and a meaningful opportunity to be heard require that interested parties be permitted time to obtain and present witnesses and documentary evidence in support of their interests, as well as an opportunity to cross-examine and rebut witnesses and documentary evidence adverse to their interests. ... We therefore conclude that Mother has shown a probable right to relief on her claim that she was denied meaningful notice and an opportunity to heard.

## **Summary**

The case squarely holds that due process requires reasonable notice and a meaningful opportunity to be heard before deprivation of significant rights, and emphasizes the necessity of an actual opportunity to present and rebut evidence. This supports the argument that un-setting an emergency hearing and refusing to consider a TRO—thereby providing no opportunity to be heard—violates procedural due process under both constitutions.

[In re Christensen, 39 S.W.3d 250 \(Tex. App. 2000\)](#)

### **Texas Court of Appeals**

#### **Extract**

Consideration of a motion properly filed and before a trial court is ministerial. ... Fundamental requirements of due process mandate an opportunity to be heard. ... Thus, a district court may be compelled via mandamus to consider and rule on a pending motion presented to the court.

## **Summary**

The court states that when a motion is properly filed and before the court, the judge has a ministerial duty to consider it. It further ties this to due process, which mandates an opportunity to be heard. If a court refuses to consider and rule on a properly presented motion, mandamus may issue to compel consideration and a ruling. Applied here, the associate judge's refusal to hear the properly filed emergency TRO and un-setting the hearing because of a potential future filing denies the litigant the mandated opportunity to be heard and the court's ministerial duty to consider and rule, supporting a due-process violation and mandamus relief.

[In re Blakeney, 254 S.W.3d 659 \(Tex. App. 2008\)](#)

### **Texas Court of Appeals**

#### **Extract**

A trial court is required to consider and rule on a properly filed and pending motion within a reasonable time. ... In proper cases, mandamus may issue to

compel the trial court to act. ... see also Eli Lilly & Co. v. Marshall, 829 S.W.2d 157, 158 (Tex.1992) (trial court abuses discretion by refusing to conduct hearing and render decision on motion); Chiles v. Schuble, 788 S.W.2d 205, 207 (Tex.App.-Houston [14th Dist.] 1990, orig. proceeding) (mandamus an appropriate remedy to require trial court to hold hearing and exercise discretion).

## **Summary**

The court recognizes a duty of trial courts to consider and rule on properly filed motions within a reasonable time. Refusing to conduct a hearing and render a decision on a motion is an abuse of discretion. Mandamus can compel the court to hold a hearing and exercise discretion. Applied to an emergency TRO set for hearing, the associate judge's un-setting and refusal to hear the motion because of a potential future filing mirrors the condemned conduct—refusing to conduct a hearing and render a decision—supporting an argument that the litigant was denied a meaningful opportunity to be heard and that mandamus relief is appropriate.

### Perry v. Perry

#### **Texas Court of Appeals**

#### **Extract**

Failure to give the notice required by Section 157.062 does not render the proceeding void unless the lack of notice amounts to a denial of constitutional due process." ... (citing *Ex parte Davis* ... noting that "holding of the hearing in less than ten days after service of notice may constitute a denial of due process[]" and that the purpose of the ten day notice requirement is "to afford the defaulting party a reasonable opportunity to employ counsel, gather evidence, subpoena witnesses and prepare for trial[]") ... "In determining whether the failure to give the required notice amounts to a denial of constitutional due process, '[e]ach case must be judged upon its own facts.'

## **Summary**

The appellate court emphasizes that due process focuses on ensuring a meaningful opportunity to be heard. It cites *Ex parte Davis* for the principle that truncating or denying procedural opportunities (e.g., by inadequate notice or timing) can amount to a due process violation because it deprives a party of a reasonable chance to present their case. Although the cited section addresses enforcement and notice, the core due-process reasoning—that courts must afford a meaningful opportunity to be heard and that procedural actions that prevent that opportunity can violate due process—supports an argument that refusing to hear a duly presented emergency TRO based on a speculative future motion denies that meaningful opportunity, thus offending due process.

[In re V.K., 607 S.W.3d 471 \(Tex. App. 2020\)](#)

**Texas Court of Appeals**

**Extract**

Section 83.004 provides that '[a]ny individual affected by a temporary ex parte order may file a motion at any time to vacate the order.' ... 'On the filing of the motion to vacate, the court shall set a date for hearing the motion as soon as possible.' ... We hold that under the unambiguous language of section 83.004 the Legislature requires that the trial court hold a live evidentiary hearing on a motion to vacate a temporary ex parte protective order. ... The trial court's refusal to conduct an evidentiary hearing violates the Legislature's statutory mandate that motions to vacate be decided in a live, evidentiary hearing, not by submission. ... To the extent the trial court relied upon the Supreme Court of Texas's COVID-19 Emergency Orders and purported to modify or suspend the procedure for reviewing and ruling on relator's motion to vacate the Order so as to deny relator his statutory right to a live evidentiary hearing, the trial court violated relator's constitutional due process rights in doing so.

**Summary**

The case holds that when the Legislature requires a prompt, live hearing on urgent protective-order relief, a court may not deny that hearing; doing so violates both the statute and due process. Although In re V.K. addresses motions to vacate ex parte protective orders, its core holding—that refusing to conduct the required live hearing on emergent injunctive-type relief violates due process—supports the proposition that un-setting and refusing to hear an emergency TRO request deprives a litigant of a meaningful opportunity to be heard. The court also rejects reliance on administrative or scheduling considerations to avoid a hearing, reinforcing that constitutional due process limits such refusals.

[In re Abbott, 628 S.W.3d 288 \(Tex. 2021\)](#)

**Texas Supreme Court**

**Extract**

Consistent with these principles, Texas Rule of Civil Procedure 680 permits issuance of a TRO 'without notice to the adverse party' only when 'it clearly appears from specific facts shown by affidavit or by verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before notice can be served and a hearing had thereon.' ... The TRO suffers an additional deficiency as well. Even assuming that immediate and irreparable injury was imminent on August 8, it remained the responsibility of the TRO applicant and the court to notify and hear from the opposing

party if at all possible. Because an adversarial process is always preferable when it is possible, even in emergencies, the rules of procedure require the district court to explain, in the TRO, 'why the order was granted without notice' to the opposing party. TEX. R. CIV. P. 680.

## **Summary**

The Court emphasizes that Rule 680 strictly conditions ex parte TROs and that an adversarial hearing should be held if possible, reflecting a due-process preference for a meaningful opportunity to be heard on emergency relief. This supports arguing that summarily refusing to hear an emergency TRO—particularly for docket-management or anticipated future filings—denies the litigant that meaningful opportunity.

[In re Cnty. of Hidalgo, 655 S.W.3d 44 \(Tex. App. 2022\)](#)

## **Texas Court of Appeals**

### **Extract**

Temporary restraining orders are subject to the requirements of the Texas Rules of Civil Procedure. See TEX. R. CIV. P. 680, 683, 684. These procedural requirements are mandatory, and an order granting a temporary restraining order that fails to meet these requirements is void. ... In summary, a trial court issuing a temporary restraining order is required 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. See TEX. R. CIV. P. 680, 683, 684 ... First, Texas Rule of Civil Procedure 680 provides that: 'No temporary restraining order shall be granted without notice to the adverse party unless it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before notice can be served and a hearing had thereon. Every temporary restraining order granted without notice shall ... define the injury and state why it is irreparable and why the order was granted without notice ....' ... The supreme court interprets the rules to require that every temporary restraining order must 'set forth the reasons why the court deems it proper to issue the writ to prevent injury to the applicant in the interim; that is, the reasons why the court believes the applicant's probable right will be endangered if the writ does not issue.'

## **Summary**

The passages establish that Rule 680 imposes mandatory procedures for TROs, including that ex parte relief is permitted only upon specific factual showings of immediate and irreparable injury, and that courts must promptly set hearings and state reasons. While the case focuses on invalidating a TRO for noncompliance, its articulation of Rule 680 underscores that emergency TRO practice is designed to ensure a prompt, meaningful opportunity to be

heard (or clearly justified ex parte relief if hearing cannot occur). Refusing to hear an emergency TRO for a speculative future consolidation motion frustrates the mandatory framework designed to safeguard immediate access to TRO relief and the hearing requirement, supporting the due-process argument that the litigant was denied a meaningful opportunity to be heard on an emergency request.

[Buchanan v. Androderm X, LLC, 01-24-00762-CV \(Tex. App. Nov 25, 2025\)](#)

### **Texas Court of Appeals**

#### **Extract**

Rule 681 provides that '[n]o temporary injunction shall be issued without notice to the adverse party.' ... '[A] lack of notice violates basic principles of due process.' ... 'The underlying basis for enactment of [Rule] 681 was the recognition of an individual's fundamental right to due process of law.' ... Rule 681's notice requirement impliedly requires that an adverse party be provided an opportunity to be heard before the temporary injunction issues. ... This means that an adverse party must be given 'an opportunity to present [his] defenses and ... rest[] [his] case' before a temporary injunction issues. ... [See] Kramer Trading ... (holding trial court abused its discretion by issuing temporary injunction before enjoined party presented its defense).

#### **Summary**

The court ties Texas Rule 681's notice requirement to constitutional due process and explicitly recognizes a party's right to a meaningful opportunity to be heard before temporary injunctive relief is issued. Although the case discusses temporary injunctions rather than TROs, it grounds the hearing right in due process and opportunity to be heard, which supports the proposition that denying a scheduled opportunity to present an emergency request undermines due process. The cited authorities (Highsmith, Peralta, Great Lakes, Oertel, Kramer) reinforce the necessity of an opportunity to present and rest one's case before injunctive relief decisions. This supports arguing that refusing to conduct the set hearing on the emergency request—based solely on a potential future motion—deprived the litigant of the meaningful opportunity to be heard required by due process.

[In re Raines, No. 10-19-00376-CR \(Tex. App. Oct 30, 2019\)](#)

### **Texas Court of Appeals**

#### **Extract**

The need to consider and rule on a properly filed and presented request for relief is not a discretionary act but a ministerial one, and a trial court is

allowed a reasonable time within which to perform that act. ... The duty to act, however, generally does not arise until the movant has brought the request for relief to the trial judge's attention; and mandamus will not lie unless the movant makes such a showing, and the trial judge then fails or refuses to rule within a reasonable time.

## **Summary**

When a litigant properly files and presents a request for relief (such as an emergency TRO) and brings it to the judge's attention, the court has a ministerial duty—not discretion—to consider and rule, within a reasonable time. Refusing to hear or rule, despite the request being presented, constitutes a failure to perform a ministerial duty. Un-setting a noticed hearing and refusing to consider the emergency TRO because of a potential future filing by the other side reflects a refusal to rule after the matter was brought to the court's attention, fitting within mandamus standards. This supports the due-process theory that the litigant was denied a meaningful opportunity to be heard on urgent relief.

[In re Keeter, No. 10-19-00277-CR \(Tex. App. Aug 28, 2019\)](#)

## **Texas Court of Appeals**

### **Extract**

A court with mandamus authority 'will grant mandamus relief if relator can demonstrate that the act sought to be compelled is purely 'ministerial' and that relator has no other adequate legal remedy.'" ... "Consideration of a motion properly filed and before the court is ministerial." ... "Mandamus may issue to compel a trial court to rule on a motion which has been pending before the court for...

## **Summary**

(1) courts can be compelled by mandamus to perform ministerial acts; (2) considering a properly filed motion is a ministerial act; and (3) mandamus may issue to compel a trial court to rule on a motion that is before it. Refusing to hear or consider a properly filed emergency TRO and un-setting a hearing because of a possible future filing aligns with a refusal to perform the ministerial duty to consider and rule on the motion, supporting the argument that the litigant was denied a meaningful opportunity to be heard and that extraordinary relief may be warranted.

[In re Dupuy](#)

## **Texas Court of Appeals**

## **Extract**

The trial courts are required to rule 'within a reasonable time' on motions that are properly filed. ... When a motion is properly filed and pending before a trial court, the act of giving consideration to and ruling upon that motion is a ministerial act, and mandamus may issue to compel the trial court to act. ... To establish that the trial court abused its discretion by failing to rule, the relator must show that the trial court: (1) had a legal duty to perform a nondiscretionary act; (2) was asked to perform the act; and (3) failed or refused to do so.

## **Summary**

Texas trial courts have a ministerial duty to consider and rule on properly filed motions within a reasonable time, and mandamus can compel action when the court refuses to rule. In the TRO context, refusing to hear or rule—especially by un-setting a noticed hearing due to a potential future filing—fits a failure to perform this nondiscretionary act. That supports the proposition that the associate judge's refusal deprived the litigant of a meaningful opportunity to be heard on an emergency request and supports a due-process framing.

[In re Gilmer, NO. 12-19-00383-CR \(Tex. App. Dec 04, 2019\)](#)

## **Texas Court of Appeals**

### **Extract**

To obtain a writ of mandamus compelling a trial court to consider and rule on a motion, the relator must show that the trial court (1) had a legal duty to perform a nondiscretionary act, (2) was asked to perform the act, and (3) failed or refused to do so. ... Generally, a trial court has a nondiscretionary duty to consider and rule on a motion within a reasonable time. ... However, a trial court cannot be expected to consider a motion not called to its attention.

## **Summary**

Texas appellate courts recognize that a trial court has a nondiscretionary duty to consider and rule on properly presented motions within a reasonable time, and mandamus is available when the court refuses. If the litigant presented an emergency TRO and the associate judge un-set the hearing and refused to hear it, that supports an argument that the court failed to perform its nondiscretionary duty to consider and rule, satisfying mandamus elements. While the passage does not itself address constitutional due process or Rule 680, it supports the procedural predicate that refusing to consider a properly presented emergency motion is an abuse correctable by mandamus, which bolsters the due-process argument that the litigant was denied a meaningful opportunity to be heard.

[In re Diana, 13-24-00287-CV \(Tex. App. Jun 28, 2024\)](#)

**Texas Court of Appeals**

**Extract**

The trial court has a duty to consider and rule on motions properly filed and pending before it, and mandamus may issue to compel the trial court to act... 'A relator may demonstrate an inadequate remedy by appeal by showing that a trial court has refused to set a hearing or rule on a proper motion.' ... Here, relator contends that the trial court abused its discretion by refusing to set a hearing... The trial court has refused to set a hearing on relator's motion on grounds that an appeal of those orders is currently pending... Further § 109.001(a) expressly contemplates that a hearing is required under the specified circumstances. ... The Court... is of the opinion that relator has met his burden to obtain relief. Accordingly, we conditionally grant the petition for writ of mandamus, and we direct the trial court to consider and rule on relator's motion for enforcement.

**Summary**

The court reaffirmed that a Texas trial court must consider and rule on properly filed, pending motions and that refusal to set a hearing or rule can warrant mandamus. The opinion rejected the trial court's refusal to set a hearing based on a pending appeal, emphasizing statutory and general obligations to afford a hearing when required. This supports the argument that a judge may not refuse to hear an emergency application (like a TRO) based solely on anticipated or pending procedural developments by the opposing party; doing so denies a meaningful opportunity to be heard. While In re Diana concerns temporary orders/enforcement and § 109.001(a), its core principle—that courts must hear and rule on properly filed urgent motions and that refusal to set or hold a hearing is an abuse of discretion remediable by mandamus—supports the due-process framing here.

[In re Glenny, 03-25-00412-CV \(Tex. App. Jun 24, 2025\)](#)

**Texas Court of Appeals**

**Extract**

In this petition for mandamus relief, Relator contends that granting a motion to vacate a temporary ex parte protective order without a live, evidentiary hearing violates Texas Family Code § 83.004 and thus constitutes an abuse of discretion by the trial court. Relator also contends that mandamus is the appropriate remedy because no adequate remedy exists on appeal. We agree on both counts. Because this case is brought to preserve a statutory right to legal process, the Relator does not have an adequate remedy at law, and mandamus relief is appropriate. ... Tex. Fam. Code § 83.004. 'On the filing of

the motion to vacate, the court shall set a date for hearing the motion as soon as possible.' ... we ... [infer] that the hearing need actually occur. Indeed, our sister courts of appeal have both interpreted this section as imposing a duty to hold such a hearing. See V.K., 607 S.W.3d at 479; In re Goddard, ... (mem. op.). ... The Twelfth Court of Appeals also concluded that a trial court abused its discretion by vacating a protective order without the applicant receiving notice and an opportunity to be heard. ... The court of appeals ruled that vacating the temporary ex parte protective order without a hearing was an abuse of discretion, because, among other factors, 'Section 83.004 would appear to require a hearing before vacating a protective order.' ... 'Given the remedial nature of Title IV of the Texas Family Code... courts should broadly construe its provisions so as to effectuate its humanitarian and preventative purposes.' ... These humanitarian and preventative purposes are best effectuated through giving an applicant for a protective order the opportunity to participate in a hearing ... before that protective order is vacated. ... Thus we hold the judge failed to correctly apply Texas Family Code 83.004 and abused her discretion.

## **Summary**

The court held it is an abuse of discretion to resolve or vacate urgent protective-order relief without a live, evidentiary hearing, emphasizing a statutory duty to promptly set and actually conduct a hearing and the applicant's right to notice and an opportunity to be heard. The opinion recognizes mandamus as appropriate to vindicate the right to legal process when a court denies a hearing. This directly parallels the proposition: refusing to hear an emergency request (here, a TRO) and un-setting a scheduled hearing deprives the applicant of a meaningful opportunity to be heard, violating due process and constituting an abuse of discretion. Though Glenny arises under Family Code protective orders rather than Rule 680 TROs, it reinforces the core due process principle and the requirement that courts not deny emergency relief applications a prompt hearing based on procedural maneuvers or anticipated future filings.

[Chiles v. Schuble, 788 S.W.2d 205 \(Tex. App. 1990\)](#)

## **Texas Court of Appeals**

### **Extract**

Although we believe respondent has no absolute duty to enforce his temporary support orders by contempt under any and all circumstances, we do find his refusal to entertain a show/cause hearing on the motion to enforce an abuse of his discretion. We conditionally grant the writ." ... "In this case, respondent has refused to permit relator to develop a record to prove non-compliance with the prior order by the real party in interest, and to permit the real party in interest to show reasons for non-compliance." ... "we may mandamus him to hold a hearing and exercise his discretion." ... "We conditionally grant the writ and order respondent to hold a hearing on relator's motion to enforce. Only if he fails to do so will mandamus issue.

## **Summary**

The court held it was an abuse of discretion for a trial judge to refuse to entertain and set for hearing a motion seeking emergency-type relief (enforcement of temporary orders). The appellate court granted mandamus compelling the judge to hold a hearing and exercise discretion. This supports the proposition that a court cannot simply refuse to hear an urgent application and deny a litigant the opportunity to develop a record and be heard. While Chiles addresses a motion to enforce temporary orders rather than a TRO, the core principle—refusal to hold a hearing on a properly presented urgent motion is an abuse of discretion warranting mandamus—supports the due process argument that the litigant was denied a meaningful opportunity to be heard when the associate judge un-set and refused to hear the emergency TRO.

### [Tex. Const. art. 1 § 19 Tex. Const. art. 1 § 19 Deprivation of Life, Liberty, Etc.; Due Course of Law](#)

#### **Extract**

No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.

## **Summary**

Section 19 guarantees that deprivations of protected interests must occur only by “due course of the law of the land,” which Texas courts construe as requiring fair procedures, including a meaningful opportunity to be heard. Denying a scheduled emergency hearing and refusing to entertain a TRO request based solely on a speculative future motion impedes procedural fairness and access to the court’s process for protecting property or other substantial interests from imminent harm, implicating Section 19’s protection.

### [Tex. Fam. Code § 105.001 Tex. Fam. Code § 105.001 Temporary Orders Before Final Order](#)

#### **Extract**

Except as provided by Subsection (c), temporary restraining orders and temporary injunctions under this section shall be granted without the necessity of an affidavit or verified pleading stating specific facts showing that immediate and irreparable injury, loss, or damage will result before notice can be served and a hearing can be held. Except as provided by Subsection (h), an order may not be rendered under Subsection (a), , or except after notice and a hearing." ... "(a-1) If the court on its own motion refers to mediation a suit in which an initial hearing regarding the rendition

of a temporary order described by Subsection (a) has not yet occurred, the court may not postpone the hearing to a date that is later than the 30th day after the date set for the hearing.

## **Summary**

Section 105.001 authorizes temporary restraining orders and temporary injunctions in SAPCRs and sets procedural guardrails. It indicates TROs and temporary injunctions “shall be granted” without the usual affidavit requirements unique to SAPCRs, signaling availability of swift emergency relief. It also requires, except for limited governmental-emergency circumstances, that orders under Subsection (a) be rendered only “after notice and a hearing,” underscoring the centrality of a hearing opportunity. Subsection (a-1) restricts court-caused postponements when the court diverts to mediation, reflecting a legislative mandate against indefinite or undue delays in initial temporary-order hearings. Together, these provisions support the proposition that a court should not deny or un-set a noticed emergency hearing based solely on a potential future procedural development, because the Family Code prioritizes prompt access to temporary relief and the opportunity to be heard.

### [Rule 680. Temporary Restraining Order](#)

#### **Extract**

No temporary restraining order shall be granted without notice to the adverse party unless it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before notice can be served and a hearing had thereon. ... In case a temporary restraining order is granted without notice, the application for a temporary injunction shall be set down for hearing at the earliest possible date and takes precedence of all matters except older matters of the same character; ... On two days' notice ... the adverse party may appear and move its dissolution or modification and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

## **Summary**

Rule 680 emphasizes expedited consideration of emergency injunctive relief: TROs can be issued ex parte only upon specific, verified facts showing immediate and irreparable harm; applications for further injunctive relief must be set for hearing at the earliest possible date and take precedence; and when contested, the court must hear and determine matters expeditiously. This framework shows that emergency injunctive requests are entitled to prompt, prioritized judicial attention rather than postponement for unrelated, future filings. Refusing to hear an already-set emergency TRO because of a possible future consolidation motion contravenes Rule 680’s mandate for earliest-possible, precedence hearings and expeditious

determination, supporting the due-process argument that the litigant was denied a meaningful opportunity to be heard on his emergency request.

This memo was compiled by Vincent AI based on vLex materials available as of December 13, 2025. [View full answer on vLex](#)