

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION

Chad Mangum,

Plaintiff,

-V-

State of Oregon, acting by and through the
State Board of Tax Practitioners,

Defendant.

Case No. 25CV08937

PLAINTIFF'S OBJECTION TO
INFORMAL EXTENSION ORDER AND
RENEWED DEMAND FOR IMMEDIATE
HEARING ON MOTION FOR
PRELIMINARY INJUNCTION

I. INTRODUCTION

1.

Plaintiff Chad Mangum respectfully objects to the Court’s informal and procedurally defective grant of an extension of time to Defendant to respond to Plaintiff’s pending Motion for Preliminary Injunction. The motion—filed over six weeks ago—was timely, served properly, and never opposed. Yet now, as Defendant proceeds with rulemaking *that the motion was expressly intended to enjoin*, the Court has deferred urgency—not for justice, but for the convenience of the very agency causing the harm. The right to be heard should not yield to the calendar of the agency causing the harm. Ongoing financial harm is not suspended by administrative oversight.

2.

Plaintiff filed the Motion for Preliminary Injunction on March 3, 2025. No hearing was scheduled. On March 27, Plaintiff contacted the Judge's office seeking to clarify hearing scheduling and was met with refusal and a blanket assertion that the Court would not act for 30 days. This response directly contravenes the plain terms of ORCP 79 C(1), which requires only that the adverse party be given five days' notice before a scheduled hearing.

3.

Now, on the eve of relevant administrative action, Defendant has been granted an extension it never formally—nor informally—requested. The procedural defects surrounding that extension—and the injustice of rewarding an admitted failure to read the docket—are documented below. But the legal urgency now exceeds mere procedure. On April 30, 2025, Defendant will hold a public hearing to adopt new administrative rules that go directly to the heart of Plaintiff's lawsuit. The public comment period for these rules ends May 5, 2025. These pending actions will irreparably alter the regulatory landscape that Plaintiff seeks to enjoin. This Court has full authority under ORCP 79 to set a hearing date immediately upon five days' notice, or sooner, to the adverse party. Plaintiff requests that it do so now.

II. LACK OF NOTICE OF COURT-IMPOSED DEADLINE

4.

On April 16, 2025, court staff sent an email to Defendant's counsel stating that "Judge Bennett would like to know if you intend to respond, or shall he grant the motion," and asking for a reply before Noon on April 18. Plaintiff was not copied on this email and was unaware that the Court was requesting a response or considering imminent ruling. While the request did not set a deadline for the filing of a responsive motion, it introduced procedural expectations that

1 were communicated to only one party. This communication became the basis for the Court’s
2 subsequent grant of an extension—despite no formal motion being filed, no explicit request for
3 an extension, no opportunity for Plaintiff to respond, and no formal deadline ever being entered
4 or served.

5 **III. NO MOTION FOR EXTENSION FILED BY DEFENDANT**

6 5.

7 Defendant never filed a motion for extension of time. Under Oregon law, ORCP 15 A
8 governs the time for filing pleadings and motions. For motions not tied to a summons (such as
9 Plaintiff’s Motion for Preliminary Injunction), ORCP 15 A does not prescribe a specific
10 timeframe for filing a response. However, Oregon courts customarily expect timely opposition,
11 and where a party fails to respond or seek an enlargement of time under ORCP 15 D, the court
12 may proceed in its discretion. ORCP 15 D permits the court to allow a motion, response, or reply
13 to be filed after the deadline, or to enlarge the period of time, "in its discretion, and upon any
14 terms as may be just." The rule does not limit the court’s authority to extend time, but it does
15 expressly condition that authority on a finding of just terms. Here, Defendant offered no terms at
16 all—only a retrospective explanation and a vague statement of future intent. That is not a basis
17 for relief.

18 6.

19 Instead, Defendant's counsel responded to court staff with a statement of intent: “We *will*
20 request a two-week extension of time...” (emphasis added). This was not an actual request for
21 relief, nor was it framed as such. It did not ask the Court to take action, offer supporting grounds,
22 or indicate that a motion was being formally or informally submitted. It was not styled as a
23 motion, did not include a certificate of service, and was never filed nor served. Despite this, the

1 Court granted an extension. Granting relief based on a non-requested, non-served, forward-
2 looking statement—without any justification rising to the level of “terms as may be just” (ORCP
3 15)—undermines the procedural rights of the Plaintiff and circumvents the adversarial process.

4 7.

5 Despite Plaintiff’s good-faith agreement to accept service informally by email, Defendant
6 delayed responding to the original complaint for 39 days—and did so only after Plaintiff gave
7 formal notice of intent to pursue a default judgment. When Defendant finally filed its Answer, it
8 was rushed, offered little factual engagement, and consisted primarily of general denials. The
9 lateness of the filing was not used to prepare a substantive response, but merely to avoid default.
10 This ongoing pattern of delay and minimal engagement continues now with the pending Motion
11 for Preliminary Injunction and further undermines any equitable justification for additional time
12 under ORCP 15 D.

13 **IV. NO OPPORTUNITY FOR PLAINTIFF TO OBJECT BEFORE RELIEF GRANTED**

14 8.

15 The Court’s email granting the extension included the phrase, “Any objection by Plaintiff
16 Pro Se is noted.” However, Plaintiff was not given a meaningful opportunity to object before the
17 extension was granted. Acknowledging a hypothetical objection that was never invited is not a
18 substitute for due process. No motion was ever filed or served, and no process existed by which
19 Plaintiff could meaningfully respond prior to the Court’s decision. The procedural order of
20 operations was reversed: relief was granted first, and objection only hypothetically 'heard and
21 noted' afterward. As the U.S. Supreme Court has long emphasized, “The fundamental
22 requirement of due process is the opportunity to be heard at a meaningful time and in a
23 meaningful manner.” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

11.

Plaintiff further notes that the *urgency* has *escalated*: the Oregon Board of Tax Practitioners has issued notice of new and amended rules, with a public hearing scheduled for **April 30, 2025**, and a comment deadline of **May 5, 2025**. Defendant seems to have premeditated adoption of these rules regardless. If these rules are adopted or enforced prior to a ruling on Plaintiff's preliminary injunction motion, Plaintiff—and others similarly situated—will suffer *concrete regulatory harm*. Plaintiff, even **today**, was quantitatively, directly financially harmed by Defendant, and continues to be subject to harm.

VII. TRADITIONAL INJUNCTION FACTORS ARE SATISFIED

12.

Although this filing is not the motion itself, Plaintiff emphasizes and reiterates that the standards supporting a preliminary injunction are already met on the record:

- **Irreparable harm:** The Board is actively proceeding with new rulemaking that will reshape the legal landscape and professional obligations challenged by Plaintiff. Once these rules are adopted, Plaintiff and others similarly situated will be forced to comply with an unlawfully asserted regulatory regime, with no adequate post-enforcement remedy.
- **No adequate remedy at law:** Monetary damages cannot undo the structural and professional impact of compelled licensure, market exclusion, or agency enforcement threats. What is at stake is Plaintiff's ability to lawfully operate and serve clients without interference—something only equitable relief can preserve.
- **Likelihood of success:** Plaintiff's motion relies on unambiguous statutory language, legislative history, and well-established limits on agency power. Defendant has failed to engage with the motion at all and has admitted not reviewing the materials. Nothing in the record rebuts Plaintiff's statutory interpretation or factual assertions.
- **Balance of equities:** The balance tips entirely in Plaintiff's favor. Defendant is a state agency with staff, counsel, and full access to resources. Plaintiff is a solo practitioner and single parent, defending against unlawful overreach that threatens not just his livelihood, but the rights of similarly situated professionals. There is no prejudice to Defendant in

1 requiring it to defend its rulemaking promptly—especially when it did not even request
2 the extension it was granted.

3 13.

4 Time is the one luxury Plaintiff—and 700,000 similarly situated out-of-state tax
5 professionals—cannot afford. Financial harm is not courteous. It does not pause while the
6 offending agency finds its calendar. Delay caused by Defendant’s disregard is not a justification
7 for extending the window during which it may continue to inflict unlawful harm. If this were a
8 protective order in any other context, the Court would never permit the alleged source of harm to
9 dictate the timeline of its own restraint—especially when the delay aligns with a *known* and
10 *scheduled* opportunity to cause *further injury*. Financial and regulatory harm deserves no less
11 urgency.

12 **VIII. CONCLUSION**

13 Plaintiff respectfully requests that the Court:

- 14 • Rescind the informal extension granted without request; and
 - 15 • Immediately set a hearing on the Motion for Preliminary Injunction at the earliest
16 practicable date, regardless of Defendant’s availability.
- 17
18
19
20
21
22
23
24
25
26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

DATED this 17th day of April, 2025.

RESPECTFULLY SUBMITTED,

CHAD MANGUM
Plaintiff

/s/ Chad Mangum
CHAD MANGUM
Plaintiff